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INTEGRATED WASTE MANAGEMENT
BOARD AS ENFORCEMENT AGENCY
FOR SAN LUIS OBISPO COUNTY

BEFORE THE
HEARING PANEL OF THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
AS ENFORCEMENT AGENCY FOR SAN LUIS OBISPO COUNTY

In the Matter of:)	APPEAL OF NOTICE AND ORDER
)	NO. EA-2005-05
)	
JIM FILBIN AGGREGATES)	PUBLIC RESOURCES CODE § 44307
4398 SANTA FE ROAD)	
SAN LUIS OBISPO, CA)	Date: December 5, 2005
APN 076-371-012)	Time: 1:30 p.m.
)	

HEARING BRIEF OF
RESPONDENT CALIFORNIA
INTEGRATED WASTE MANAGEMENT
BOARD AS ENFORCEMENT AGENCY
FOR SAN LUIS OBISPO COUNTY

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Introduction

Petitioner James P. Filbin ("Petitioner Filbin") is the owner and operator of a business known to the California Integrated Waste Management Board ("CIWMB") as "Jim Filbin Aggregates,"¹ an unpermitted solid waste facility located at 4398 Santa Fe Road, San Luis Obispo, California 93401 (APN 076-371-012) (the "Facility"). The Facility is situated on property owned by Petitioner Filbin comprising approximately 13 acres in San Luis Obispo County, near the western boundary of the San Luis Obispo County Airport. In addition to other commercial activities, Petitioner Filbin carries out various solid waste handling and disposal activities at the Facility in violation of applicable state solid waste laws and regulations.²

Petitioner Filbin has requested a hearing³ before the Hearing Panel of the California Integrated Waste Management Board pursuant to Public Resources Code Section 44307.⁴ The purpose of Petitioner Filbin's request for hearing is to appeal Notice and Order No. EA-2005-05 (the "Notice and Order"),⁵ issued to Petitioner Filbin by Respondent CIWMB, acting as the Enforcement Agency for San Luis Obispo County (the "EA") pursuant to Section 43205(a).

A request for a hearing must contain a "statement of the issues" that constitute the basis for the appeal. Section 44310(a)(1). In his request for hearing (see Exhibit "A"), Petitioner Filbin Petitioner stated that that "the basis of the appeal is...":

¹ "Jim Filbin Aggregates" may also operate under other business names, including "Santa Fe Road Aggregates."

² State solid waste laws and regulations include the Integrated Waste Management Act, Public Resources Code §§ 40000 et seq.; Title 14, California Code of Regulations ("CCR"), Div. 7, commencing at § 17000; and Title 27, CCR, Division 2, commencing at § 20005. Statutes and regulations referenced in this Hearing Brief are collected in the Appendix of Solid Waste Laws and Regulations, filed herewith.

³ A true and correct copy of Petitioner's request for a hearing is attached hereto as Exhibit "A."

⁴ Unless otherwise specified, all references to statutes are to the Public Resources Code.

⁵ A true and correct copy of Notice and Order No. EA-2005-05, together with cover letter from Susan Markie, EA, to James Filbin, dated October 3, 2005, is attached hereto as Exhibit "B."

buildings, and parking areas. The storage, transfer, processing or disposal of inert debris are regulated by CIWMB under its adopted regulations.⁷

Petitioner Filbin does not have a solid waste facilities permit or other authorization under state solid waste laws and regulations to conduct such activities at the Facility. The EA's repeated efforts to persuade Respondent Filbin to comply voluntarily with the CDI Regulations were not successful,⁸ and on September 30, 2005 the EA issued the Notice and Order to Respondent Filbin. With respect to activities at the Facility, the Notice and Order directs Respondent Filbin, among other things, to cease and desist accepting Type A inert debris,⁹ to begin processing existing stockpiles of Type A inert debris by November 15, 2005, to complete such processing by February 15, 2006, and to remove all of the processed material within 18 months from processing. Respondent Filbin subsequently appealed the Notice and Order by filing his request for a hearing.

Summary of Applicable State Solid Waste Law

Type A Inert Debris is a type of solid waste which is subject to regulation under applicable state solid waste laws and regulations. CDI Regulations, Sections 17381(k)(1),

⁷ Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements, Title 14, CCR, §§ 17380 et seq., and Construction and Demolition and Inert Debris Disposal Regulatory Requirements, Title 14, CCR, §§ 17387 et seq. (These regulations will be referred to collectively herein as the "CDI Regulations.") A copy of the CDI Regulations is included in the Appendix of Solid Waste Laws and Regulations, filed herewith.

⁸ See letter from Susan Markie, EA, to James Filbin, dated September 29, 2004, letter from Michael L. Bledsoe, counsel to the EA, to James Filbin, dated November 29, 2004, and letter from Michael L. Bledsoe, counsel to the EA, to James Filbin, dated January 27, 2005, true and correct copies of which are attached hereto as Exhibits "D," "E," and "F," respectively.

⁹ "Type A inert debris" includes solid waste such as concrete, fully cured asphalt, crushed glass, brick, slag, plaster and other materials which do not contain excessive levels of soluble pollutants. Title 14, CCR, § 17388(k)(1).

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1 17388(k)(1). Unless the activity qualifies as an "inert debris recycling center" (see CDI
2 Regulations, Section 17381.1), a person who transfers or processes Type A Inert Debris must
3 either obtain a full solid waste facilities permit or comply with requirements for EA Notification,
4 depending on amounts handled. CDI Regulations, Sections 17383.7, 17383.6. If Type A Inert
5 Debris is stored for more than six months without having been sorted or processed for resale or
6 reuse, it is deemed to have been disposed. CDI Regulations, Section 17381(ee), 17381.1(e)(1),
7 17383.7(a). A person who disposes Type A Inert Debris must obtain a solid waste facilities
8 permit. CDI Regulations, Section 17388.4. If a person carries out solid waste handling or
9 disposal activities for which a solid waste facilities permit is required without such a permit, the
10 EA must order the person to cease such activities until he or she obtains the required permit.
11 Section 44002.

12
13 Argument

14 1. State Solid Waste Law Requires That Petitioner Filbin Obtain a Solid Waste Facilities
15 Permit To Carry Out Solid Waste Handling Activities and Solid Waste Disposal
16 Activities at the Facility in That Unprocessed Type A Inert Debris Is Stored at the
17 Facility in Excess of Six Months.

18 In his request for a hearing, Petitioner Filbin asserts that "material is being processed
19 within 6 months of acquisition" and that "storage of material is not what is occurring."¹⁰ The
20 evidence will show that, in fact, the solid waste in question is not being processed within six
21 months from being deposited at the Facility. The evidence will also show that the material is
22 stored for more than six months without being processed, and, therefore, is deemed to be
23 disposed at the Facility. Accordingly, Petitioner Filbin is operating a solid waste facility at the
24 Facility without a solid waste facilities permit in violation of state solid waste laws and
25 regulations.

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27 ¹⁰ See Petitioner's request for hearing at Exhibit "A."

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1 In particular, EA staff member Jeff Hackett, an employee of CIWMB whose duties
2 include inspecting solid waste handling and disposal activities in San Luis Obispo County,
3 observed at the Facility, among other things, substantial quantities of materials that appeared to
4 include concrete and asphalt during a site visit on September 21, 2004¹¹ and during an aerial
5 reconnaissance of the Facility on October 21, 2004.¹² Petitioner Filbin refused to allow EA staff
6 to enter the Facility to inspect and determine the nature and extent of solid waste handling on the
7 property. (See Exhibits D, E and F.) Subsequently, during an inspection of the Facility by Mr.
8 Hackett and CIWMB employee Ms. Susan Markie,¹³ pursuant to an Inspection Warrant,¹⁴ Mr.
9 Hackett observed, among other things, seven large stockpiles of separated materials containing
10 approximately 57,100 cubic yards of concrete rubble and approximately 23,100 cubic yards of
11 asphalt debris.¹⁵ Concrete rubble and asphalt debris are types of solid waste referred to as "Type
12 A Inert Debris" in the CDI Regulations adopted by CIWMB. CDI Regulations, Section
13 17388(k)(1). These materials have been disposed at the Facility.¹⁶ When Type A Inert Debris is
14

15 ¹¹ Mr. Hackett's made his September 21, 2004 observations from the adjacent road because Petitioner Filbin refused
16 to allow him access to the Facility. See letter from letter from Susan Markie, EA, to James Filbin, dated September
17 29, 2004, attached hereto as Exhibit "D."

18 ¹² True and correct copies of photographs of the Facility that Mr. Hackett took during his aerial reconnaissance on
19 October 21, 2004 are attached hereto as Exhibit "G."

20 ¹³ Ms. Markie is the supervisor of CIWMB's Enforcement Assistance Section, and supervises Mr. Hackett.

21 ¹⁴ A true and correct copy of the Inspection Warrant the EA executed on May 25, 2005, together with the Notice of
22 Execution of Warrant, is attached hereto as Exhibit "H."

23 ¹⁵ A true and correct copy of the Site Inspection Report and Notice of Violation ("Inspection Report and NOV")
24 prepared by Mr. Hackett after his May 25, 2005 inspection of the Facility, and the cover letter from Susan Markie,
25 EA, to James Filbin, dated June 24, 2005, are attached hereto as Exhibit "I." The Inspection Report and NOV
26 contains a number of photographs showing conditions at the Facility on May 25, 2005.

27 ¹⁶ "'Disposal' means the final deposition of ...inert debris onto land." CDI Regulations, Section 17388(e).

disposed at a site, the operator is required to obtain a Registration Permit (a form of solid waste facilities permit) from the EA, as well as meet other requirements. CDI Regulations, Section 17388.4. Petitioner Filbin does not have a Registration Permit for the Facility.

The evidence will also show that the Facility does not qualify as an Inert Debris Type A Processing Operation or other inert debris processing facility. Petitioner Filbin does not process¹⁷ the Type A Inert Debris at the Facility. Instead, Petitioner Filbin stores, and, ultimately, disposes the material at the Facility.¹⁸ Mr. Hackett observed that there was no sign of processing activity at the Facility, no scale, nor any indication of equipment that could be used to process the inert debris in question. Inspection Report and NOV, p. 2. The condition of the stockpiles themselves, such as plants growing out of the stockpiles, also showed that the material was not being processed. Further, Petitioner Filbin has submitted no evidence to the EA to support any claim that the Type A Inert Debris is being processed. Indeed, Mr. Hackett states in the Inspection Report and NOV that Petitioner Filbin, in response to a question from Mr. Hackett, claims that he does not have records of the amounts of materials received at the Facility or removed from it. Inspection Report and NOV, p. 2. Petitioner Filbin also told Mr. Hackett that the material at the Facility is not processed or removed from the site on any regular schedule. Inspection Report and NOV, p. 2. Therefore, because Petitioner Filbin stores the Type A Inert Debris for more than six months without processing it and sorting it for resale or reuse,

¹⁷ “‘Processing’ means controlled separation, recovery, volume reduction, or recycling of solid waste including, but not limited to, organized, manual, automated, or mechanical sorting; chipping, grinding, shredding or baling; the use of vehicles for spreading of waste for the purposed of recovery; and the use of conveyor belts, sorting lines or volume reduction equipment.” CDI Regulations, Section 17381(v).

¹⁸ “‘Storage’ means the holding or stockpiling of processed or unprocessed ...inert debris or recyclable materials for a temporary period, at the end of which the material either is recycled or is transferred elsewhere. Storage of ...inert debris or recyclable materials for periods exceeding the limits set in this Article is deemed to be disposal and shall be regulated ...[as municipal solid waste disposal].” CDI Regulations, Section 17381(ee) [emphasis added].

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1 the material is deemed to have been unlawfully disposed and the EA is to commence
2 enforcement proceedings. CDI Regulations, Section 17383.8(a);¹⁹ see also, Section 44002. In
3 order to be lawful, a site at which Type A Inert Debris that has been disposed must qualify as a
4 disposal facility under the CDI Regulations. See CDI Regulations, Section 17388.4. The
5 Facility does not have the required solid waste facilities permit necessary to qualify as a Type A
6 Inert Debris disposal facility.

7 Likewise, the Facility does not qualify as an "inert debris recycling center," an activity
8 that is not subject to the CDI Regulations. See CDI Regulations, Section 17381.1(a). Inert
9 debris stored for more than six months without having been processed and sorted for resale or
10 reuse is deemed to have been unlawfully disposed. CDI Regulations, Section 17381.1(e)(1).²⁰
11 Petitioner Filbin has not provided any evidence to support an argument that the Facility is an
12 inert debris recycling center. He bears the burden of providing such evidence. CDI Regulations,
13 Section 17381.1(h).

14 Because the Facility is not exempt from the CDI Regulations, does not qualify as an
15 processing facility or operation (for which a solid waste facilities permit or EA Notification is
16 required) and does not have the required solid waste facilities permit required for a disposal
17 facility, Petitioner Filbin must immediately cease the storage of Type A Inert Debris at the
18 Facility, as ordered by the EA in its Notice and Order, and may not recommence the activity
19 until he obtains the appropriate permit or other authorization.
20

21 ¹⁹ The CDI Regulations allow operators of Type A Inert Debris processing facilities to extend to storage time limit
22 by demonstrating that the facility's land use entitlement allows longer storage (Section 17384(a), by submitting an
23 acceptable storage plan to the EA (Section 17384(b), or by providing financial assurances to cover clean-up costs
24 (Section 17384(c). Petitioner Filbin has not attempted to obtain EA approval for any extension of storage times.

25 ²⁰ As in the case of inert debris processing facilities, storage time limits at inert debris recycling centers may be
26 extended when financial assurances have been made, an appropriate land use entitlement exists or the enforcement
27 agency has approved a storage plan. CDI Regulations, Section 17381.1(e)(4), (5) and (6).

2. The Solid Waste Handling and Disposal Activities at the Facility Are Not Protected by "Grandfathering" Since 1979

The EA presumes that Petitioner Filbin is asserting that the solid waste handling and disposal activities occurring at the Facility began in 1979 and that state solid waste laws and regulations²¹ enacted after 1979 do not apply to those activities. There is no statute, constitutional provision or common law principle of which we are aware to support such an assertion, nor has Petitioner Filbin submitted any authority for his assertion. Petitioner Filbin does not have a vested right²² to continue solid waste handling and disposal activities at the Facility in a manner that is prohibited by state solid waste laws and regulations enacted to protect the public health and safety, whether or not the activity predated the enactment of the laws and regulations. Davidson v. County of San Diego, 49 Cal. App. 4th 639, 648-649 (1996). When regulations are reasonably necessary to prevent the operation of a solid waste facility from being a public nuisance or constitute a danger to the public, they may be imposed notwithstanding the vested rights doctrine. Davidson, 49 Cal. App. 4th at 650. The laws and regulations which Petitioner Filbin violated, as set out in the Notice and Order, are reasonable regulations of his use of his property, enacted by the legislature and adopted by CIWMB to protect the public health and safety and the environment, among other purposes. CDI Regulations, Sections 17380(a), 17380.1(b) and 17387.5. As such, the laws and regulations are intended to protect the public

²¹ The transfer/processing portion of the CDI Regulations took effect on August 9, 2003 (the Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements, Title 14, CCR, §§ 17380, et seq.) and the disposal portion of the CDI Regulations took effect on February 24, 2004 (the Construction and Demolition and Inert Debris Disposal Regulatory Requirements, Title 14, CCR, §§ 17387, et seq.).

²² A property owner has a "vested right" to continue a pre-existing, permitted use of his or her land, notwithstanding subsequent changes in land regulation that would preclude such a use, if the new regulation would prevent the property owner from such use without due process or would effect a taking. See, generally, Avco Community Developers, Inc. v. South Coast Regional Com., 17 Cal.3d 785, 791-799 (1976).

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1 from solid waste handling and disposal activities that could otherwise become public nuisances
2 or constitute a danger to the public. They apply from their effective dates to activities that are
3 then ongoing, as well as to activities that commence after their effective dates.
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5 Conclusion

6 The Notice and Order, in part, directs Petitioner Filbin as follows:

- 7 1. Immediately cease and desist the acceptance of Type A Inert Debris.
8 2. Begin processing existing stockpiles of Type A Inert Debris no later than November
9 15, 2005 and complete the processing of all Type A Inert Debris at the Facility by
10 February 15, 2006.
11 3. Remove the processed Type A Inert Debris from the Facility within 18 months from
12 processing.

13 Petitioner Filbin is also required to submit monthly documentation showing progress toward
14 achieving the requirement of the Notice and Order. Notice and Order, p.3, at Exhibit "B."

15 By submitting a request for a hearing, certain provisions of the Notice and Order are
16 automatically stayed. Section 45017 provides that the provisions of the Notice and Order,
17 excepting the cease and desist provision, are stayed pending the completion of administrative
18 appeals. Accordingly, the provisions of the Notice and Order, excepting the cease and desist
19 provision, are stayed from November 3, 2005, the date CIWMB received Petitioner Filbin's
20 request for a hearing, through the completion of administrative appeals.

21 On the basis of the authority presented in this Hearing Brief and the evidence to be
22 submitted at the hearing, Respondent CIWMB requests that the Hearing Panel affirm the Notice

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1 and Order in every respect, subject only to the automatic stay provisions of Section 45017, and
2 deny Petitioner Filbin's appeal in every respect.

3
4 Dated: November 29, 2005

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6 Respectfully submitted,

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8 Michael L. Bledsoe
9 Senior Staff Counsel
10 Attorney for CALIFORNIA INTEGRATED
11 WASTE MANAGEMENT BOARD AS
12 ENFORCEMENT AGENCY FOR SAN LUIS
13 OBISPO COUNTY
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LIST OF EXHIBITS

- A. Petitioner's Request for Hearing, dated October 31, 2005
- B. Notice and Order No. EA-2005-05, dated September 30, 2005, together with cover letter from Susan Markie, EA, to James Filbin, dated October 3, 2005.
- C. Memorandum of Agreement between CIWMB, the County of San Luis Obispo and the City of El Paso de Robles, dated July 1, 2004
- D. Letter from Susan Markie, EA, to James Filbin, dated September 29, 2004
- E. Letter from Michael L. Bledsoe, counsel to the EA, to James Filbin, dated November 29, 2004
- F. Letter from Michael L. Bledsoe, counsel to the EA, to James Filbin, dated January 27, 2005
- G. Copies of photographs of the Facility that Mr. Hackett took during his aerial reconnaissance of the Facility on October 21, 2004
- H. Inspection Warrant dated May 23, 2005 and Notice of Execution of Warrant dated May 23, 2005
- I. Site Inspection Report and Notice of Violation prepared by Mr. Hackett after his May 25, 2005 inspection of the Facility, together with cover letter from Susan Markie, EA, to James Filbin, dated June 24, 2005

EXHIBIT "A"

Integrated Waste Management Agency
State of California

October 31 2005

Re Appeal
Jim Filbin Aggregates
James P Filbin

Dear Sirs,

This is an appeal from your order served Oct 15 2005 at the property of Jim Filbin;

The basis of the appeal is that

Material is being processed within 6 months of acquisition contrary to your findings

The activities are protected by grandfathering dating 1979

Storage of material is not what is occurring

Please advise of hearing procedures

Yours truly

Jim Filbin

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EXHIBIT "B"



Alan C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

California Integrated Waste Management Board

Rosario Marin, Chair
1001 I Street • Sacramento, California 95814 • (916) 341-6000
Mailing Address: P. O. Box 4025, Sacramento, CA 95812-4025
www.ciwmb.ca.gov



Arnold Schwarzenegger
Governor

OCT 3 2005

CERTIFIED MAIL 7040 0550 0000 7676 5365

Mr. James P. Filbin
Jim Filbin Aggregates
4398 Santa Fe Road
San Luis Obispo, CA 93401

SUBJECT: Jim Filbin Aggregates, Facility No. 40-AA-0041
Assessor Parcel Number 076-371-012, San Luis Obispo County
Notice and Order EA-2005-05

Dear Mr. Filbin:

Transmitted herewith is Notice & Order No. EA-2005-05 issued by the California Integrated Waste Management Board, which requires that you immediately cease and desist the acceptance of Type A inert debris, including without limitation asphalt and concrete, at the subject facility and to begin processing the existing stockpiles of Type A inert debris for resale or reuse by November 15, 2005.

If you have any questions or comments regarding this Notice & Order, please contact me at (916) 341-6324 or Jeff Hackett of my staff at (916) 341-6413.

Sincerely,

Susan Markie, Supervisor
Enforcement Assistance Section
Permitting and Enforcement Division

Attachments

cc: San Luis Obispo County Planning and Building Department
Central Coast Regional Water Quality Control Board
Wiley P. Ramey, Jr., P.O. Box 170, San Simeon, CA 93452

California Environmental Protection Agency

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The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web site at <http://www.ciwmb.ca.gov/>

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6 **BEFORE THE**
7 **CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD**
8 **AS ENFORCEMENT AGENCY FOR SAN LUIS OBISPO COUNTY**
9

10 In the Matter of:

11
12 JIM FILBIN AGGREGATES
13 4398 SANTA FE ROAD
14 SAN LUIS OBISPO, CA
FACILITY NO. 40-AA-0041
APN 076-371-012

) NOTICE AND ORDER

) NO. EA-2005-05

) PUBLIC RESOURCES CODE

) §§45000, 45005, 45011, and 45023,

) CALIFORNIA CODE OF REGULATIONS,

) TITLE 14 §§18304 and 18304.1
)

15
16 **NOTICE AND ORDER**
17

18 **TO:** Mr. James P. Filbin, owner and operator (collectively, "Operator") of Jim Filbin
19 Aggregates, 4398 Santa Fe Road, San Luis Obispo, California 93401:

20 **PLEASE TAKE NOTICE THAT:**

21 WHEREAS, Jim Filbin Aggregates ("Facility"), a solid waste facility, is located at 4398
22 Santa Fe Road, San Luis Obispo, California (APN 076-371-012); and

23 WHEREAS, the California Integrated Waste Management Board ("CIWMB") has
24 authority to act in the capacity of enforcement agency (EA) for this Facility pursuant to Public
25 Resource Code ("PRC") §43200 et seq., and is so acting; and

26 WHEREAS, Operator is operating a solid waste facility on said property without having
27 obtained a Solid Waste Facilities Permit ("SWFP") for the Facility in that the Operator has not

obtained a SWFP and Operator stores and disposes solid waste, including "Type A inert debris," as defined in Title 14 of the California Code of Regulations, Section 17381(k)(1), at the Facility; and

WHEREAS, Operator is in violation of PRC §44002(a)(1), which requires every operator of a solid waste facility to obtain a SWFP; and

WHEREAS, on May 25, 2005, CIWMB staff inspected the Facility and sent a transmittal letter and Site Inspection Report and Notice of Violation to the Operator on June 24, 2005. The May 25, 2005 inspection, was conducted in accordance with Inspection Warrant Case No. 6500 signed by San Luis Obispo County Superior Court Judge Christopher Money on May 23, 2005. The Site Inspection Report and Notice of Violation directed Mr. Filbin, as Operator, to submit a compliance schedule to the CIWMB by July 29, 2005. The compliance schedule was to provide the Operator's schedule to begin processing for resale or reuse the existing stockpiles of Type A inert debris at the Facility and the anticipated date to complete the processing of all the Type A inert debris. The requested schedule has not been received. On August 23, 2005 and September 28, 2005, CIWMB staff viewed the Facility from Santa Fe Road and did not observe the processing of the Type A inert debris, nor did it appear that any significant amount of the Type A inert debris at the Facility had been processed or removed from the Facility.

WHEREAS, ongoing violations in the operation of this Facility have been documented since May 25, 2005, which include:

1. Title 14, California Code of Regulations (CCR), Chapter 3, Article 5.9, Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements, Section 17381.1(e)(1) – Storage Time Limits: Type A inert debris is not being processed and sorted for resale or reuse within six months of receipt. Since the Type A inert debris is not being processed and sorted for resale or reuse within six months of receipt, the Facility does not qualify as a recycling center and the Type A inert debris is considered unlawfully disposed and subject to the requirements in 14 CCR Article 5.95 –

Construction and Demolition Waste and Inert Debris Disposal Regulatory
Requirements.

2. Public Resources Code, Section 44002(a)(1) – No person shall operate a solid waste facility without a SWFP if that facility is required to have a permit pursuant to the Integrated Waste Management Act (PRC §§ 40000 et seq.). The Facility is operating as a solid waste facility but does not have a SWFP.

THEREFORE, PURSUANT TO PRC SECTIONS 44002, 45000, 45005, 45011, AND 45023, MR JAMES P. FILBIN IS ORDERED TO:

1. Immediately cease and desist the acceptance of Type A inert debris, as defined in 14 CCR 17381(k)(1), including without limitation asphalt and concrete, at the Facility.
2. Begin processing the existing stockpiles of Type A inert debris for resale or reuse by November 15, 2005, and complete the processing of all Type A inert debris at the Facility by February 15, 2006.
3. Remove the processed material from the Facility within 18 months of processing.
4. Submit monthly status reports to the CIWMB on the type and quantity of Type A inert debris processed each month with the first report due December 15, 2005.
5. Submit monthly sales receipts and/or documentation for the processed materials sold or given away to verify that the material is not disposed at an unpermitted location. Each monthly report shall be due 30 days after the close of the reporting month.
6. Submit the written reports and documentation required above, to: Mr. Jeff Hackett, California Integrated Waste Management Board, Permitting & Enforcement Division, Facilities Operations Branch, 1001 I Street, P.O. Box 4025, Sacramento, CA 95812.

PLEASE TAKE NOTICE THAT PURSUANT TO PRC SECTIONS 45011, 45014, AND 45023, if the above actions are not completed or complied with by the specified dates, the CIWMB may:

- 1 1. Impose administrative civil penalties in an amount not to exceed \$5,000 per day for each
2 day the Facility fails to achieve compliance within the time frames specified above.
3 [PRC Section 45011]
- 4 2. Petition the superior court for injunctive relief to enforce this Notice and Order.
5 [PRC Section 45014].
- 6 3. Petition the superior court for civil penalties in an amount not to exceed \$10,000 per day
7 for each violation. [PRC Section 45023 and 45024]

8 In the event the time frames for completion of the above specified activities cannot be
9 adhered to due to adverse weather or other factors not in the control of the operator, then the EA
10 may extend the time frames based upon those specific factors provided by the operator in writing.
11 Any such extension to the time frames or other amendment to this Notice and Order shall be in the
12 form of an Amended Notice and Order.

13 Failure to remedy the aforementioned violation(s) by the required date(s) may result in
14 the CIWMB expending available funds to perform any cleanup, abatement, or remedial work
15 required under the circumstances set forth in PRC section 45000 which, in the judgement of the
16 CIWMB, is required by the magnitude of endeavor or the need for prompt action to protect
17 public health and safety or the environment. If the CIWMB expends funds to perform any
18 cleanup, abatement, or remedial work, the CIWMB may seek cost reimbursement from the
19 operator or owner pursuant to PRC section 45000(d).

20 Nothing in this Notice and Order shall constitute or be construed as a satisfaction or
21 release from liability for any conditions or claims arising as a result of past, current, or future
22 operations. Notwithstanding compliance with the terms of this Notice and Order, the owner and
23 operator may be required to take further actions as necessary to protect the public health, safety,
24 or the environment.

25 The EA shall not be liable for injuries or damages to persons or property resulting from
26 acts or omissions by the owner or operator or related parties in carrying out activities pursuant to
27

1 this Notice and Order, nor shall the EA be held as a party to any contract entered into by the
2 owner or operator or their agent(s) in carrying out activities pursuant to this Notice and Order.

3 This Notice and Order is supported by the accompanying declaration of Jeff Hackett,
4 Integrated Waste Management Specialist.

5 This Notice and Order does not relieve Jim Filbin Aggregates from complying with all
6 other local, state, and federal requirements, nor does it preclude the EA or the CIWMB from
7 taking any and all other actions allowed by law.

8 This Notice and Order may only be amended in writing by an authorized representative
9 of the EA.

10 **PLEASE TAKE NOTICE THAT:**

- 11 1. You have the right to appeal this Notice and Order to the Hearing Panel. [PRC
12 Section 44307]
- 13 2. If you wish to appeal this Notice and Order to the Hearing Panel, you must do so by
14 submitting a written request for a hearing to the undersigned, together with a
15 statement of the issues on which your appeal is based, within 15 days from the date
16 you receive this Notice and Order. [PRC Section 44310]

17 This Notice and Order is issued as of the date set forth below.

18
19
20 Dated: September 30, 2005

21 Howard Levenson

22 Howard Levenson, PhD, Deputy Director
23 Permitting & Enforcement Division
24 California Integrated Waste Management Board
25 Acting as the Enforcement Agency for San Luis Obispo County
26 1001 I Street, 10th Floor
27 P.O. Box 4025
Sacramento, CA 95812-4025

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8 **BEFORE THE**
9 **CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD**
10 **AS ENFORCEMENT AGENCY FOR SAN LUIS OBISPO COUNTY**
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12 In the Matter of:)	DECLARATION OF
)	
13 JIM FILBIN AGGREGATES)	JEFF HACKETT
14 4398 SANTA FE ROAD)	
15 SAN LUIS OBISPO, CA)	RE: NOTICE AND ORDER
16 FACILITY NO. 40-AA-0041)	NO. EA-2005-05
16 <u>APN 076-371-012</u>)	

17
18 **DECLARATION IN SUPPORT OF NOTICE AND ORDER**

19 I, Jeff Hackett, declare as follows:

- 20 1. I am currently employed as an Integrated Waste Management Specialist by
21 the California Integrated Waste Management Board (CIWMB), a position I
22 have held for 14 years. Pursuant to Public Resources Code Section 43205(b),
23 the CIWMB is the enforcement agency (EA) for San Luis Obispo County.
24 My duties at the CIWMB include inspecting solid waste facilities in San Luis
25 Obispo County to determine their compliance with the Integrated Waste
26 Management Act (Public Resources Code Sections 40000 et seq.) (the Act)
27 and CIWMB regulations issued pursuant to the Act.

2. I have personal knowledge that the Facility described in Notice and Order No. EA-2005-05 is in violation of the Act and CIWMB regulations, specifically, Public Resources Code, Section 44002(a)(1), which requires every operator of a solid waste facility to obtain a Solid Waste Facilities Permit, and Title 14, California Code of Regulations (CCR), Section 17381.1(e)(1), which requires that Type A inert debris at an inert debris recycling center be processed and sorted for resale or reuse within six months of receipt, otherwise such inert debris is deemed to have been disposed.¹ This knowledge was obtained by:

a. Visual observations of the Facility during an inspection, which I made on May 25, 2005, in accordance with Inspection Warrant Case No. 6500. (A true and correct copy of the report I prepared following this inspection is attached hereto as Exhibit "A" and is incorporated herein by this reference.)

b. Reviewing Facility records on file at the CIWMB.

3. I have personal knowledge of the fact that a Site Inspection Report and Notice of Violation was sent by certified mail and first class mail via the United States Postal Service (USPS) on June 24, 2005, to Mr. James P. Filbin, owner and operator of the Facility regarding violations of 14 CCR Section 17381.1(e)(1) (attached as Exhibit "A"). The certified mail copy of the Site Inspection Report and Notice of Violation was returned to the

¹ Title 14, California Code of Regulations, Section 17381.1(e) provides, in pertinent part:

The following storage limits apply to inert debris recycling centers: (1) Inert debris stored for more than 6 months that has not been processed and sorted for resale or reuse shall be deemed to have been unlawfully disposed and therefore subject to enforcement action, including the use of a Notice and Order as provided in section 18304."

1 CIWMB as "Unclaimed". However, the copy of the Site Inspection Report
2 and Notice of Violation sent by first class mail was not returned to the
3 CIWMB.


4 4. I have personal knowledge of the fact that on August 23, 2005 and
5 September 28, 2005, I observed the Facility from Santa Fe Road and
6 observed that large stockpiles of asphalt and concrete continue to exist at the
7 Facility.

8 5. The specific conditions I observed at the Facility which constitute violations
9 and the corresponding statutory, regulatory, or permit requirements are
10 specified in the inspection report attached as Exhibit "A" and the Notice and
11 Order issued herewith.

12
13 I declare under penalty of perjury that the foregoing is true and correct.

14
15 Executed at 1001 'I' Street, Sacramento, California.

16
17 DATED: 9/30/05

18
19
20 
21 Jeff Hackett
22 Integrated Waste Management Specialist
23 Permitting & Enforcement Division
24 California Integrated Waste Management Board
25
26
27



Alan C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

California Integrated Waste Management Board

Rosario Marin, Chair
1001 I Street • Sacramento, California 95814 • (916) 341-6000
Mailing Address: P. O. Box 4025, Sacramento, CA 95812-4025
www.ciwmb.ca.gov



Arnold Schwarzenegger
Governor

CERTIFIED MAIL – 7004 0550 0000 7676 5280

June 24, 2005

Mr. James P. Filbin, Owner
Jim Filbin Aggregates
4398 Santa Fe Road
San Luis Obispo, CA 93401

SUBJECT: Jim Filbin Aggregates, Assessor Parcel Number 076-371-012, San Luis Obispo County

Dear Mr. Filbin:

Enclosed is a copy of California Integrated Waste Management Board (CIWMB) staff's May 25, 2005 Inspection Report and Notice of Violation. The subject property was evaluated for compliance with the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulations and Construction and Demolition Waste and Inert Debris Disposal Regulatory Requirements contained in Title 14 of the California Code of Regulations (CCR), Chapter 3, Articles 5.9 and 5.95, respectively.

Based on CIWMB staff's observations and discussions with you during the May 25, 2005 inspection, the site receives source separated Type A inert debris that contains less than 10% residual material and less than one percent putrescible wastes and is considered an Inert Debris Recycling Center. However, since the inert debris is not being processed and sorted for resale or reuse within six months of receipt as required by 14 CCR 17381.1(e)(1), the inert debris is deemed to have been unlawfully disposed. You are hereby requested to submit a compliance schedule to the CIWMB by **July 29, 2005**, which describes your plans and schedule to process for resale or reuse the existing stockpiles of inert debris on your property. The compliance schedule shall include specific dates by which materials will be processed and removed from the property.

In addition, the following records shall be maintained: 1) the type and quantity of inert debris received; 2) documentation that the inert debris is processed and sorted for resale or reuse within six months of receipt; and 3) documentation that processed material is removed from the site within 18 months of processing. It is the owner/operator's responsibility to provide proof that the inert debris does not exceed the applicable storage limits in order to demonstrate compliance with 14 CCR Article 5.9. Maintaining the aforementioned records will assist in making that demonstration to the CIWMB.

CIWMB staff is available to assist you with specific questions or concerns regarding these requirements. Please be advised, if the compliance schedule is not submitted by **June 29, 2005**, a Notice and Order setting timelines and penalties may be issued.

California Environmental Protection Agency


 Printed on Recycled Paper

As the solid waste enforcement agency, the CIWMB is authorized to charge the owner/operator of a solid waste facility for its services when performing the duties of the solid waste enforcement agency. The current billing rate is \$102.49 per hour. As a result, all costs incurred while inspecting, reviewing pertinent documentation, and preparing correspondence will be billed to the owner/operator of the solid waste facility.

Keep in mind, no provisions in 14 CCR Article 5.9 or 5.95 shall be construed as relieving the owner/operator from obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports, or other requirements of other regulatory or enforcement agencies, including but not limited to, local health agencies, land use authorities, fire authorities, Regional Water Quality Control Board, and Air Pollution Control District.

If you have any questions regarding the inspection report or the CIWMB's requirements, please contact me at (916) 341-6324 or Jeff Hackett of my staff at (916) 341-6413.

Sincerely,



Susan Markie, Supervisor
Enforcement Assistance Section
Facilities Operations Branch
Permitting and Enforcement Division

Enclosure

cc: San Luis Obispo County Planning and Building Department
San Luis Obispo County Public Health Depart., Environmental Health Services (CUPA Program)
Central Coast Regional Water Quality Control Board
Wiley P. Ramey, Jr., P.O. Box 170, San Simeon, CA 93452

**CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
SITE INSPECTION REPORT AND NOTICE OF VIOLATION**

FACILITY: Jim Filbin Aggregates

INSPECTOR: Jeff Hackett 

FACILITY #:

ACCOMPANIED BY: Susan Markie, CIWMB
Mike Poelking, CHP
James P. Filbin, Owner
Mike (associate of
Mr. Filbin)

INSPECTION DATE: May 25, 2005

LOCATION: 4398 Santa Fe Road
San Luis Obispo, CA 93401
APN 076-371-012
(the "Filbin Site")

SITE TELEPHONE: 805.543.1383

PERMIT ISSUE DATE: None

OWNER AND Mr. James P. Filbin
OPERATOR: 4398 Santa Fe Road
San Luis Obispo, CA 93401

ACREAGE: 13.01

Background:

On September 21, 2004, California Integrated Waste Management Board (CIWMB) staff, Jeff Hackett, acting as the enforcement agency for San Luis Obispo County pursuant to Public Resources Code section 43202, observed large stockpiles of concrete and asphalt at the Filbin Site from Santa Fe Road, San Luis Obispo. Mr. Hackett entered the Filbin Site and was greeted by an occupant of the property. The purpose of the visit was to meet and inform the owner and/or operator of the Filbin Site of the CIWMB's Construction and Demolition and Inert (CDI) Debris Regulations contained in Title 14 of the California Code of Regulations (CCR). Mr. Hackett discussed the CDI regulations with the occupant (believed to be Mr. James P. Filbin, but he would not provide his name) and asked permission to inspect the property. A copy of Title 14 CCR, Article 5.9 was provided to the occupant. The occupant of the Filbin Site did not grant Mr. Hackett permission to inspect the Filbin Site.

On September 29, 2004, CIWMB Supervisor, Susan Markie, sent a letter to Mr. Filbin, which requested that Mr. Filbin contact CIWMB staff by October 15, 2004, to arrange an inspection of the Filbin Site to determine the permitting requirements and minimum operating standards for the receipt, storage, handling, transfer, or processing of construction and demolition and inert debris on the Filbin Site. CIWMB staff did not receive a response from Mr. Filbin.

On October 21, 2004, CIWMB staff, Jeff Hackett, conducted an aerial assessment of the Filbin Site with the California Highway Patrol to take photographs of the property and to evaluate the types and extent of solid waste stored on the property. The aerial assessment showed that a majority of the approximately 13 acre Filbin Site is covered with stockpiles of concrete, asphalt, soil, and other salvage/vehicles (pictures on file).

On November 29, 2004, CIWMB Senior Staff Counsel, Michael Bledsoe, sent a letter to Mr. Filbin again requesting permission to inspect the Filbin Site. The letter requested a response from Mr. Filbin by December 13, 2004, to arrange for CIWMB staff to inspect the property. CIWMB staff did not receive a response from Mr. Filbin granting permission to inspect the Filbin Site.

On January 27, 2005, Mr. Bledsoe sent another letter to Mr. Filbin (via facsimile) in response to a telephone conversation between Mr. Bledsoe and Mr. Filbin on January 25, 2005. This letter again stated the CIWMB's intent to pursue an inspection warrant if consent was not granted to inspect the Filbin Site. Since consent to inspect the Filbin Site was not granted by Mr. Filbin, an inspection warrant was prepared.

On May 23, 2005, an inspection warrant was signed by San Luis Obispo County Superior Court Judge Christopher Money. The inspection warrant was subsequently served on Mr. Filbin and the inspection was carried out on May 25, 2005, at approximately 0900 hours.

Inspection Observations:

On May 25, 2005, pursuant to the inspection warrant, CIWMB staff, Jeff Hackett and Susan Markie, inspected the Filbin Site. The inspection warrant empowered the CIWMB to inspect the property to determine the applicability of State solid waste laws and regulations promulgated by the CIWMB. Since an inspection warrant was being executed, CIWMB staff was accompanied by Officer Mike Poelking of the California Highway Patrol. The inspection commenced at approximately 0900 hours. Mr. Filbin and an associate of his named "Mike" (no last name was given), and Officer Poelking accompanied CIWMB staff during the inspection.

During the inspection, CIWMB staff asked Mr. Filbin whether he had any records of the types and amounts of materials received at or removed from the Filbin Site, as well as tipping fees (dumping charges) he received. Mr. Filbin stated that he does not have any records of the materials received or removed and that he does not charge a tipping fee. There is no scale at the site and no operating heavy equipment was observed. Mr. Filbin did state that the material is not processed and removed from the Filbin Site on any regular frequency. In general, concrete, asphalt, and soil are accepted from local contractors and stockpiled in designated areas. According to Mr. Filbin, concrete, asphalt, and soil have been received at the Filbin Site since approximately December 1978.

CIWMB staff walked the Filbin Site and measured seven stockpiles of materials with a measuring wheel. CIWMB staff estimates that 7,500+ cubic yards of soil, 57,100+ cubic yards of concrete (including the "washout" material from cement trucks) and 23,100+ cubic yards of asphalt are stockpiled on the Filbin Site. Refer to the attached Site Map for the dimensions used to estimate the quantities of each material. The estimates do not include the fill material that has been placed and graded on the Filbin Site in a three to six foot lift, which has raised the elevation of the property above the surrounding topography. The following materials were also observed on the Filbin Site: less than 500 tires, lead acid batteries (most stored on pallets), transit pipe, 55-gallon drums, old cars, storage tanks, trucks, buses, RVs, and aircraft parts (fuselages, wings).

CIWMB staff did not take any samples at the time of the inspection. Contaminated soils, asbestos containing waste (in addition to the transit pipe) and hazardous materials/wastes could also be present at the Filbin Site, but a more detailed investigation by the appropriate regulatory authorities would be required to make this determination.

The materials received and stockpiled at the Filbin Site within the jurisdiction of the CIWMB consists primarily of concrete and asphalt which are considered Type A inert debris as defined in 14 CCR 17381(k)(1). The Type A inert debris received appears to be source separated, contains less than 10% residual by weight and less than one percent putrescible by volume. The owner/operator does not maintain records that document the amounts and types of material received, processed, and stored at the Filbin Site. Due to the types and amounts of material received and stored on the property, the Filbin Site is considered an Inert Debris Recycling Center and is required to meet the requirements of 14 CCR 17381.1, including the storage time limits. Based on CIWMB staff observations and discussions with Mr. Filbin, the Type A inert debris received is not processed and sorted for resale or reuse within six months of receipt as required by 14 CCR 17381.1(e)(1). Since the Type A inert debris is not processed for resale or reuse within six months of receipt, the Type A inert debris stockpiled on-site is deemed to have been unlawfully disposed and is subject to enforcement action as provided in 14 CCR 17381.1(e)(1).

The inspection concluded at approximately 1100 hours.

Violations:

The site is in violation of the following requirement:

14 CCR 17381.1(e)(1) – Storage Time Limits – Type A inert debris is not being processed and sorted for resale or reuse within six months of receipt. Based on CIWMB staff's observations during the inspection, it is apparent that the majority of the materials on the Filbin Site are not processed for resale or reuse within six months of receipt. At the time of the inspection, Mr. Filbin acknowledged that the materials received are not processed for resale or reuse within six months of receipt.

Storage time limits may be extended for a specified period if the owner/operator submits a storage plan to the enforcement agency in accordance with 14 CCR 17384(b) and the enforcement agency finds that the additional storage time does not increase the potential harm to public health, safety and the environment, pursuant to 14 CCR 17381.1(e)(6).

Note: Activities which do not meet the applicable requirements of 14 CCR 17381.1 do not qualify as recycling centers and shall comply with 14 CCR Article 5.9 or Article 5.95 and all laws and regulations applicable to them. The burden of proof is on the owner/operator of a site to demonstrate that the activities at the site are not subject to the requirements of 14 CCR Article 5.9. If the owner/operator is not able to meet the applicable storage time limits for a recycling center, then the material is considered unlawfully disposed and is subject to the requirements contained in 14 CCR Article 5.95 - Construction and Demolition Waste and Inert Debris Disposal Regulatory Requirements.

Requirements:

The owner/operator does not process the Type A inert debris for resale or reuse within six months of receipt, as required under 14 CCR 17381.1 for Type A inert debris recycling centers. The CIWMB directs that the owner/operator of the Filbin Site:

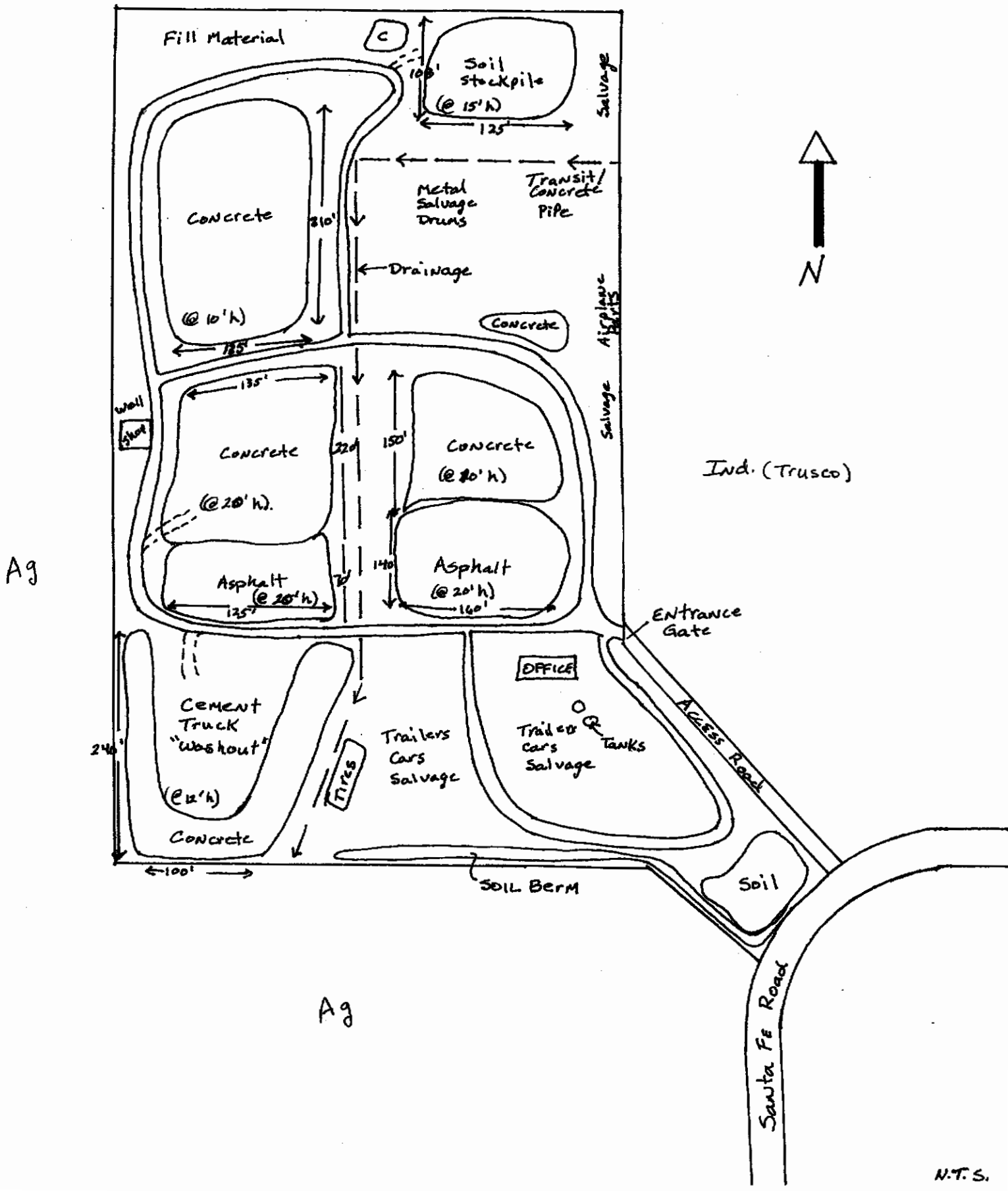
1. Submit a compliance schedule to the CIWMB not later than July 29, 2005, which includes a date that the owner/operator will begin to process for resale or reuse the existing stockpiles of Type A inert debris as well as an anticipated date to complete the processing of all of the Type A inert debris for resale or reuse. The schedule shall include the quantity of Type A inert debris that is planned to be processed on a daily, weekly, or monthly basis (e.g., 5,000 cubic yards per week).
2. Maintain the following records: 1) the type and quantity of inert debris received; 2) documentation that the inert debris is processed and sorted for resale or reuse within six months of receipt; and 3) documentation that processed material is removed from the site within 18 months of processing. It is the owner/operator's responsibility to provide proof that the inert debris does not exceed the applicable storage limits in order to demonstrate compliance with 14 CCR Article 5.9. Maintaining the aforementioned records will assist in making that demonstration to the CIWMB.

In the event the owner/operator fails to provide the required compliance schedule, CIWMB staff will issue a Notice and Order which specifies compliance dates for the processing and removal of the stockpiles of Type A inert debris as well as penalties for failure to meet the compliance dates and other enforcement measures.

No provisions in 14 CCR Article 5.9 or 5.95 shall be construed as relieving the owner/operator from obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports, or other requirements of other regulatory or enforcement agencies.

- Attachments:
1. Site Map
 2. Inspection Photos, dated 5/25/05
 3. Aerial Photo, dated 10/21/04

Jim Filbin Aggregates Site Map 5/25/05





FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: South

Weather: Overcast

Photo by: S. Markie



Photograph Description: #1-Looking south from the northwest portion of the property. Three plus foot lift of concrete/asphalt.

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: Southeast

Weather: Overcast

Photo by: S. Markie



Photograph Description: #2-Concrete/asphalt mix on northwest portion of the property placed and graded.



FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

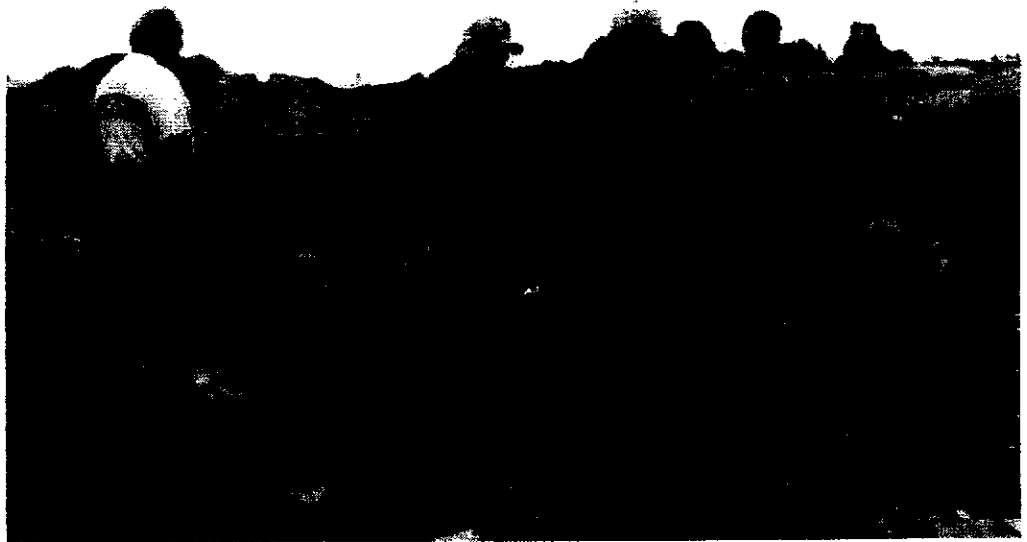
SWIS #:

Date: 5/25/05

Direction: East

Weather: Overcast

Photo by: S. Markie



Photograph Description: #3-Northern portion of site where a 3-6 lift of concrete/asphalt has been placed and graded.

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: East

Weather: Overcast

Photo by: S. Markie



Photograph Description: #4-Northern property boundary. Lift of concrete/asphalt placed and graded.



Integrated Waste Management Board
1001 I Street
Sacramento, CA 95814

FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: East

Weather: Overcast

Photo by: S. Markie



Photograph Description: #5-Northern property boundary. Small concrete stockpile and soil stockpile to the right.

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: Southeast

Weather: Overcast

Photo by: S. Markie



Photograph Description: #6-Overview of east side of the property and salvage storage area (from top of soil stockpile). Materials stored include airplane parts, transit/concrete pipe, drums, tanks, vehicles.



FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: Southeast

Weather: Overcast

Photo by: S. Markie



Photograph Description: #7-Overview of east side of the property. Materials stored include airplane parts, transit/concrete pipe, drums, tanks, vehicles, tires.

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: South

Weather: Overcast

Photo by: S. Markie



Photograph Description: #8-Overview of the site looking south from the soil stockpile.



FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: Southwest

Weather: Overcast

Photo by: S. Markie



Photograph Description: #9-Overview of the west portion of the property from the soil stockpile.

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: West

Weather: Overcast

Photo by: S. Markie



Photograph Description: #10-Overview of the west portion of the property from the soil stockpile.



Integrated Waste Management Board
1001 I Street
Sacramento, CA 95814

FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

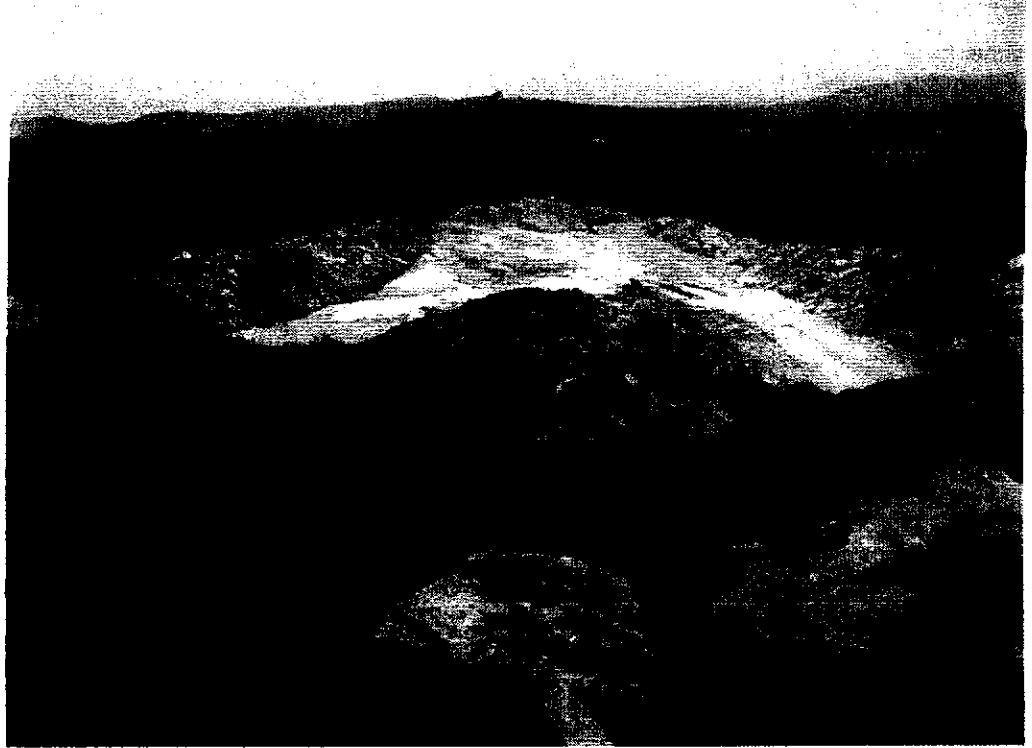
SWIS #:

Date: 5/25/05

Direction: South

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #11-View of "wash-out" material from cement trucks on southwest portion of the property.

Site Name:
Jim Filbin Aggregates

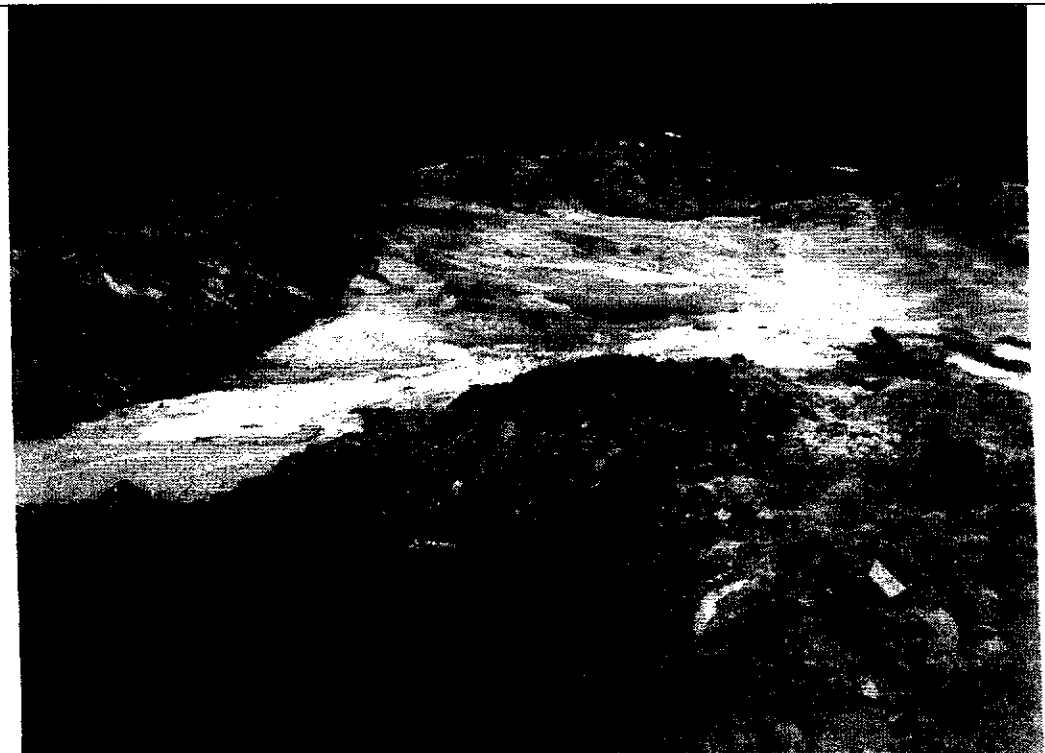
SWIS #:

Date: 5/25/05

Direction: South

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #12-"Wash-out" material from cement trucks on southwest portion of the property.



FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: Southeast

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #13-Overview of the south portion of the property (salvage/vehicle storage). Materials stored include storage tanks, vehicles, RVs, metal debris, tires.

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: North

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #14-Overview of the large concrete pile on the central portion of the property.



FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: Southeast

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #15-Overview of the south portion of the property (salvage/vehicle storage area).

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: North

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #16-Concrete stockpile. Drainage channel in lower right of photo.



Integrated Waste Management Board
1001 I Street
Sacramento, CA 95814

FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: Northeast

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #17-Asphalt debris.

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: North

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #18-Concrete debris. Shop located on the left of the photo.



FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: South

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #19-"Wash-out" material from cement trucks on southwest portion of the property.

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: North

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #20-Customer delivering concrete to unload.



FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: East

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #21-Overview of the salvage area (cars, tires, metal, trailers, storage tanks, etc.).

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: North

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #22-Customer unloading concrete.



FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: Northwest

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #23-Concrete stockpile. Drainage channel between the road and stockpile.

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction:

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #24-Asphalt stockpile.



Integrated Waste Management Board
1001 I Street
Sacramento, CA 95814

FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: South

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #25-Customer leaving.

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: North

Weather: Overcast

Photo by: S. Markie



Photograph Description: #26-Southeastern perimeter. Dog run on the right (two pit bulls).

Jim Filbin Aggregates, Aerial Photo, 10/21/04



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EXHIBIT "C"

This Memorandum of Agreement ("MOA") is made this 1st day of July, 2004, by the County of San Luis Obispo, a political subdivision of the State of California, herein called "County", the City of El Paso de Robles, a municipal corporation in the State of California, herein called "City", and the State of California Integrated Waste Management Board, herein called "CIWMB". (County, City and CIWMB may be referred to herein individually as a "Party" or collectively as the "Parties".)

RECITALS

- A. The California Integrated Waste Management Act of 1989 [Public Resources Code (PRC), Section 40000, et seq.], hereinafter referred to as the "Act", allows counties and cities to designate a local enforcement agency, or, in the absence of a designation, requires the CIWMB to enforce the standards for solid waste handling and disposal to protect the public health, safety and environment within such jurisdiction.
- B. Until July 1, 2004, the County will serve as the Local Enforcement Agency within San Luis Obispo County. The County has withdrawn its designation of a local enforcement agency on March 16, 2004 by Resolution 2004-81. Located within the jurisdictions of the County are one or more solid waste facilities, disposal sites, and handling and transportation equipment. Pursuant to the Act, the CIWMB is obligated to act as the enforcement agency within the County. The Act provides that when the CIWMB becomes the enforcement agency, it may charge reasonable fees to the local governing body, a solid waste facility operator, or a solid waste enterprise to recover operation costs.
- C. The CIWMB and the City entered into a Memorandum of Agreement (the "Paso Robles MOA"), dated September 18, 1997, in which the parties agreed that the CIWMB would serve as the enforcement agency for the City, which is the owner of a landfill within the City's boundaries. The City desires to have the CIWMB continue to be the enforcement agency for the City.
- D. Pursuant to PRC, Sections 43310.1 and 43212.1, the County and CIWMB are required to enter into an agreement to identify the jurisdictional boundaries of the enforcement agency, address the powers and duties to be performed by the CIWMB as enforcement agency, identify an estimated workload and anticipated costs to the CIWMB, and identify the cost recovery procedures to be followed by the CIWMB as enforcement agency.

NOW, THEREFORE, in consideration of the recitals and the mutual obligations of the Parties as herein expressed, the County, City and CIWMB agree as follows:

1. The jurisdiction of the CIWMB as the enforcement agency under this MOA shall be the County of San Luis Obispo including all incorporated cities and all unincorporated area within said County. Commencing July 1, 2004, which is the effective date of this MOA, the CIWMB shall be the enforcement agency for the County and all incorporated cities within the County. The CIWMB, as the enforcement agency for the County, agrees to perform the tasks and duties specified in Section 43209 of the Act, including, but not limited to, those listed below, to ensure that all regulated solid waste facilities, solid waste operations, and disposal sites within the County shall:

- a. Comply with Stat Minimum Standards [as defined in California Code of Regulations (CCR), Title 27, Section 20164 and described in CCR, Title 14, Division 7, Chapter 3] and the terms and conditions of their solid waste facility permits; and
 - b. Obtain permits or exemptions as may be required under the Act; and
 - c. Comply with enforcement orders issued by the CIWMB pursuant to 14 CCR 18084.
2. An estimated time/task analysis for CIWMB staff to perform enforcement agency functions within the County is attached to this Memorandum of Agreement as Attachment A and is hereby incorporated into this MOA by this reference.
 - a. The analysis is based on the following criteria:
 - (1) the number and type of operating and non-operating solid waste facilities, solid waste operations, and disposal sites;
 - (2) the number of annual compliance and projected complaint inspections based on the previous year's records and anticipated additions or deletions;
 - (3) the following staff activities:
 - (i) inspections, travel, research, analysis of findings and documentation;
 - (ii) enforcement activities including warnings, notices, meetings, hearings, legal proceedings and documentation;
 - (iii) permit activities including reviews, report of facility information amendments, and revisions;
 - (iv) closure and postclosure activities including plan reviews, site evaluations and investigations, and documentation; and
 - (v) corrective actions including review and approval of site investigations, assessments, characterizations, remediation alternatives, and corrective measures.
 - b. Limited specialized services shall also be provided by the CIWMB as necessary to perform the duties required of the enforcement agency.
 - c. The staff allocation is a good faith estimate and may not reflect the actual amounts to be billed to solid waste facility operators or solid waste enterprises within the County.
 3. The CIWMB shall determine the charges for services performed as the enforcement agency within the County based on the actual hours spent and expenses incurred and the CIWMB fee rate for the same period of service.
 4. a. The CIWMB, acting as the enforcement agency, shall act upon applications submitted by any operator within the County for solid waste facility permits according to the following process, as applicable:
 - (1) verification of the submission of required documents, site and personnel information;

- (2) evaluation of the application documents for accuracy and conformity with appropriate solid waste statutes and regulations;
 - (3) compliance review with the California Environmental Quality Act (Public Resources Code, Section 21000 et. seq.) for short and long term environmental impacts, damage, and proposed mitigation measures;
 - (4) determination of whether or not to accept the application and proceed with a proposed permit for CIWMB consideration;
 - (5) initiation of the appropriate public notice and comment period, including any public hearings;
 - (6) submittal of copies of the above documents, notices, comments, and responses to any party requesting such information in writing;
 - (7) preparation of permits with specific conditions for design, operation, and adverse environmental effects, monitoring and mitigation;
 - (8) submittal of proposed permits to the applicant within the required time frame; and
 - (9) provide for permit review and acceptance by the applicant, and a hearing panel process if necessary.
- b. The CIWMB shall review Enforcement Agency (EA) Notifications (as described in CCR, Title 14, Division 7, Chapter 5, Article 3) from any operator to ensure that such operations are eligible to file EA Notifications within the County. The CIWMB shall retain the EA Notifications for a minimum of one year after the cessation of operations.
 - c. Pursuant to PRC, Division 30, Parts 4 and 5 and 27 CCR, Subdivision 1, Chapter 3, Subchapter 5, Article 2, and Chapter 4, the CIWMB shall require any person owning or operating a solid waste landfill within the County to submit for approval the following:
 - (1) plans for the landfill closure and postclosure maintenance;
 - (2) estimates of closure and postclosure maintenance costs; and
 - (3) financial mechanisms to ensure adequate availability of funds.
5. The CIWMB shall conduct solid waste facility permit reviews as required by PRC, Sections 44015 and 27 CCR 21675.
 6. The CIWMB shall perform inspections of solid waste facilities, solid waste operations, and disposal sites within the County as required by PRC, Division 30, Parts 4 and 5 and 14 CCR Division 7, Chapters 3 and 5.
 7. a. If during an inspection, investigation, or at any other time, the CIWMB finds a solid waste facility, solid waste operation, or disposal site in violation of state regulations, or the terms and conditions of the permit, the CIWMB shall enforce the applicable provisions as required by PRC, Division 30 and 14 CCR Division 7, Chapter 5, Article 4. CIWMB

enforcement action.) shall address the following categories) violations including, but not limited to:

- (1) operational violations pursuant to 27 CCR, Chapter 3 and 14 CCR Division 7, Chapter 3 and PRC, Division 30;
 - (2) emergency violations which are violations of subsection (1) above which present an imminent threat to public health, safety, or the environment and require immediate action pursuant to PRC, Division 30, Part 5;
 - (3) closure and postclosure violations pursuant to PRC, Division 30, Part 4, Chapter 2, Articles 3 and 4, Part 5, and 27 CCR Subdivision 1, Subchapter 5, Article 2, and Chapter 4, Subchapter 4;
 - (4) permit terms and conditions.
- b. CIWMB enforcement action options include, but are not limited to, as set forth in PRC, Division 30, Parts 4 and 5 and 14 CCR Division 7, Chapter 5, Article 4.
8. The CIWMB may conduct hearings to determine if solid waste facilities, solid waste operations, and disposal sites are in compliance with State Minimum Standards. Compliance with State Minimum Standards is enforced through the means of inspections and enforcement orders.
 9. As part of the enforcement agency responsibility, the CIWMB will conduct administrative tasks reasonably related to its enforcement agency activities. Examples of administrative tasks include report writing, office conferences, telephone calls, records maintenance, billing, and attendance at meetings related to enforcement agency activities in the County. The CIWMB will maintain service records containing the following data for each service or activity: date, facility or operation by name and "SWIS" number, type of activity, staff hours, and inspector name. Travel and other expenses will be itemized. During the term of this MOA and for five (5) years after its termination, the CIWMB shall make available at reasonable times and places to the County, the documents and files maintained by the CIWMB pursuant to enforcement agency activities under this MOA.
 10. The County, City, and other cities and districts within the County will administer and implement all provisions of the local jurisdictions' solid waste handling ordinances. The CIWMB is not responsible for aspects of solid waste handling which are of local concern, as described in PRC, Section 40059.
 11. The CIWMB and the City acknowledge and agree that, on the effective date of this MOA, the "Paso Robles MOA" shall terminate and shall have no further force and effect. The Parties acknowledge that, until this MOA takes effect, CIWMB is serving as the enforcement agency for the City of El Paso de Robles, pursuant to the Paso Robles MOA. Upon the expiration or earlier termination of this MOA, the CIWMB and the City may elect to enter a memorandum of agreement similar to the Paso Robles MOA pursuant to Sections 43310.1 and 43212 of the Act, such that the CIWMB will continue to serve as enforcement agency in the City of El Paso de Robles although it is no longer serving in that role for the entire County.

12. The County will maintain a list of all solid waste handling and collection vehicles and perform inspections of solid waste handling and collection vehicles within the County in accordance with 14 CCR, Division 7, Chapter 3, Article 5.
13. Any dispute that develops between the Parties hereto with regard to matters arising out of or related to this MOA, and that the Parties do not resolve within 90 days, shall be submitted to mediation if so requested by one of the Parties. Within 15 days of such request, the Parties shall select a mutually acceptable mediator. Each Party shall bear its own costs (including, without limitation, attorney's fees) incurred in connection with the mediation. In the event the mediator is unable to resolve the dispute, then the Parties may pursue any and all remedies available to them.
14. To recover costs associated with the enforcement agency services provided by the CIWMB within the County, the CIWMB will impose fees on the solid waste facility operators and/or solid waste enterprises to which it provides services. This MOA shall constitute the consultation called for pursuant to PRC, Section 43212(a). The fee will include, but may not be limited to, compensation for staffing, per diem, and transportation costs. Staffing costs will be determined by using a billable hourly rate as adopted by the CIWMB. The CIWMB will provide quarterly, itemized invoices to the respective operator and/or enterprise. The itemized invoices shall have a level of detail comparable to the tasks discussed in Paragraph 9. The operator and/or enterprise shall remit payment within 45 days of receipt of invoices. The operator and/or enterprise may request evidence of invoiced costs.
15. The term of this MOA shall commence on the date set forth above and continue through June 30, 2005, unless sooner terminated by mutual written agreement of the Parties. The term of the MOA shall be automatically extended for additional one (1) year terms, commencing on the expiration of the current term. Any such extended term may be terminated by mutual written agreement of the Parties. Notwithstanding, the Parties agree that this MOA shall terminate on the next June 30 to occur following the CIWMB's certification of a local enforcement agency designated by the County, provided that the local enforcement agency is certified for all purposes by the CIWMB. In the event that the CIWMB certifies a local enforcement agency for some, but not all, purposes, the Parties agree that they will negotiate in good faith and make good faith efforts to amend this MOA as appropriate.
16. This MOA may be amended only by a writing signed by the Parties. This MOA and the exhibit(s) incorporated herein by the MOA constitutes the final, complete, and exclusive statement of the terms of the MOA between the Parties pertaining to CIWMB's serving as the enforcement agency within the County of San Luis Obispo and supersedes all prior and contemporaneous understandings or agreements of the Parties.

IN WITNESS WHEREOF, this Memorandum is executed by the County, pursuant to Board of Supervisor's Resolution No. 2/2, the City of El Paso de Robles, acting by and through its City Manager, pursuant to City Council Resolution No. 04-142 authorizing such execution, and by the California Integrated Waste Management Board, acting by and through its Executive Director, pursuant to CIWMB Resolution No. 2004-165, authorizing such execution.

Harry L. Duff
Chairman of the Board of Supervisors

ATTEST:

JULIE L. KUDRYAVTSEV

Clerk of the Board of Supervisors

By:

CHERIE AISPUR

Deputy Clerk

Cherie Caprine

APPROVED AS TO FORM AND LEGAL EFFECT

JAMES B. LINDHOLM, JR.

County Counsel

By:

Raymond A. Biering

Deputy County Counsel

Date:

6/10/04

CITY OF EL PASO DE ROBLES

By

James L. App

City Manager

ATTEST:

Sharilyn M. Ryan

Deputy City Clerk

APPROVED AS TO FORM AND LEGAL EFFECT

IRIS YANG

City Attorney

By:

Iris Yang

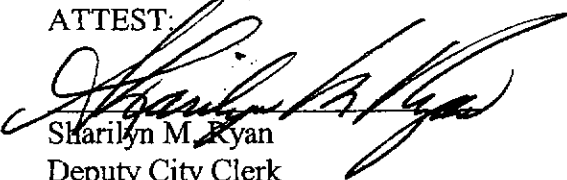
City Attorney

Date:

CITY OF EL PASO DE ROBLES

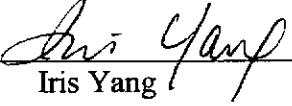
By 
James L. App
City Manager

ATTEST:


Sharilyn M. Ryan
Deputy City Clerk

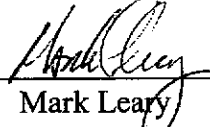
APPROVED AS TO FORM AND LEGAL EFFECT

IRIS YANG
City Attorney

By: 
Iris Yang
City Attorney

Date: 6/23/04

CALIFORNIA INTEGRATED WASTE
MANAGEMENT BOARD

By 
Mark Leary
Executive Director

Date: 6/25/2004

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tuesday, June 22, 2004

PRESENT: Supervisors Shirley Bianchi, Peg Pinard, K.H. "Katcho" Achadjian, and
Chairperson Harry L. Ovitt

ABSENT: Supervisor Michael P. Ryan

In the matter of Consent Agenda:

Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Bianchi, and
on the following roll call vote:

AYES: Supervisors Achadjian, Bianchi, Pinard, Chairperson Ovitt

NOES: None

ABSENT: Supervisor Ryan

Consent Agenda Items B-1 through B-45 are approved as recommended by the County
Administrative Officer.

Consent Agenda Items B-1 through B-45, are on file in the Office of the County Clerk-Recorder and
are available for public inspection.

STATE OF CALIFORNIA)
County of San Luis Obispo) ss.

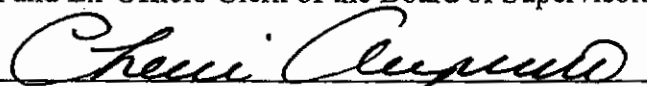
I, **JULIE L. RODEWALD**, County Clerk and Ex-Officio Clerk of the Board of Supervisors,
in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be
a full, true and correct copy of an order made by the Board of Supervisors, as the same appears
spread upon their minute book.

WITNESS my hand and the seal of the said Board of Supervisors, affixed this 22nd day of
June, 2004.

(SEAL)

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk of the Board of Supervisors

By:


Deputy Clerk

5 B-1 thru B-45

6-22-04

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

Resolution 2004-165 (Revision 2)

Consideration Of A Memorandum Of Agreement With The County Of San Luis Obispo For Enforcement Agency Duties

WHEREAS, the County of San Luis Obispo has withdrawn its designation of a local enforcement agency and does not plan to designate another local agency; and

WHEREAS, the Board will become the enforcement agency for the County of San Luis Obispo on July 1, 2004; and

WHEREAS, Public Resources Code (PRC) sections 43212.1 and 43310.1 require the Board to enter into an agreement with the local governing body for any jurisdiction where the Board becomes the enforcement agency after January 1, 1995; and

WHEREAS, the agreement must identify the jurisdictional boundaries of the enforcement agency; address the powers and duties to be performed by the Board as the enforcement agency, and identify an estimated workload and anticipated costs to the Board, and;

WHEREAS, the agreement must also identify the cost recovery procedures to be followed by the Board, and;

WHEREAS, Board staff has prepared a proposed agreement which staff of the County of San Luis Obispo and City of El Paso de Robles have reviewed, and;

WHEREAS, the County of San Luis Obispo Board of Supervisors approved the agreement on June 22, 2004, by Resolution No. N/A and executed the agreement on June 22, 2004, and the City of El Paso de Robles City Council approved the agreement on June 15, 2004, by Resolution No. 04-142 and executed the agreement on June 15, 2004; and

WHEREAS, the Board finds the agreement meets the requirements of PRC §§ 43212.1 and 43310.1;

NOW, THEREFORE, BE IT RESOLVED that the California Integrated Waste Management Board approves the agreement executed by the County of San Luis Obispo on June 22, 2004 and City of El Paso de Robles on June 15, 2004, and directs the Executive Director to execute and implement the agreement in accordance with its terms.

(Over)

NOW, THEREFORE, BE IT RESOLVED that the California Integrated Waste Management Board delegates to the Executive Director the authority to approve a Memorandum of Agreement with the County of San Luis Obispo and City of El Paso de Robles identifying the jurisdictional boundaries of the enforcement agency, the powers and duties to be performed by the Board as the enforcement agency as well as cost recovery procedures, as directed by this Board.}

CERTIFICATION

The undersigned Executive Director, or his designee, of the California Integrated Waste Management Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the California Integrated Waste Management Board held on June 15-16, 2004.

Dated: June 16, 2004



Mark Leary
Executive Director

EXHIBIT "D"



Terry Tamminen
Secretary for
Environmental
Protection

California Integrated Waste Management Board

Rosario Marin, Chair

1001 I Street • Sacramento, California 95814 • (916) 341-6000

Mailing Address: P. O. Box 4025, Sacramento, CA 95812-4025

www.ciwmb.ca.gov



Arnold Schwarzenegger
Governor

CERTIFIED MAIL – 7002 3150 0005 2347 1389

September 29, 2004

Mr. James Filbin, Owner
Jim Filbin Aggregates
4398 Santa Fe Road
San Luis Obispo, CA 93401

SUBJECT: Jim Filbin Aggregates, Assessor Parcel Number 076-371-012, San Luis Obispo County

Dear Mr. Filbin:

On September 21, 2004, Jeff Hackett of the California Integrated Waste Management Board (CIWMB), acting as the Enforcement Agency for San Luis Obispo County, attempted to conduct a site visit of the above-described property that you own. The purpose of CIWMB staff's site visit was twofold:

1. Investigate the large stockpiles of concrete and asphalt on the property that are visible from Santa Fe Road in San Luis Obispo in order to evaluate if the solid waste handling activity is subject to the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements, Construction and Demolition and Inert Debris Disposal Regulatory Requirements, or other laws or regulations administered by the CIWMB; and
2. Provide and discuss with the owner/operator of the site the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements and Construction and Demolition and Inert Debris Disposal Regulatory Requirements contained in Title 14 of the California Code of Regulations (CCR), Chapter 3, Article 5.9 and Article 5.95, commencing at Section 17380 and Section 17387, respectively.

At the time of the September 21, 2004 site visit, Mr. Hackett met with an occupant of the property who would not provide his name. The person refused to allow Mr. Hackett to inspect the property. After a brief discussion of the regulations, Mr. Hackett gave the occupant a copy of 14 CCR, Chapter 3, Article 5.9. Enclosed with this letter are copies of both Articles 5.9 and 5.95.

Based on Mr. Hackett's initial observations, it appears that the activities at the site may be subject to regulation as either a transfer/processing activity or a disposal activity and may, therefore, be required to obtain a solid waste facilities permit or to comply with the CIWMB's enforcement agency notification procedures. It is possible, however, that the activity at the site is exempt from the CIWMB's regulations. An inspection of the site is necessary to determine whether the activity is subject to regulation, and, if so, what level of regulation applies.

California Environmental Protection Agency

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The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web site at <http://www.ciwmb.ca.gov>.

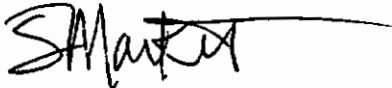
It is hereby requested that you contact Mr. Hackett at (916) 341-6413 no later than October 15, 2004, to arrange for CIWMB staff to inspect your property to determine the permitting requirements and minimum operating standards for the receipt, storage, handling, transfer, or processing of construction and demolition debris that is currently taking place on your property. The CIWMB as the Enforcement Agency is authorized by statute to inspect your property, pursuant to Public Resources Code Sections 44100 and 44101. If you do not consent to the inspection, the CIWMB will seek an inspection warrant pursuant to Code of Civil Procedure Sections 1822.50, et seq.

As the solid waste enforcement agency, the CIWMB is authorized to charge the owner/operator of a solid waste facility or a solid waste enterprise for its services when performing the duties of the solid waste enforcement agency. The current billing rate is \$105.15 per hour. As a result, all costs incurred while inspecting, reviewing pertinent documentation, and preparing correspondence will be billed to the owner/operator of the solid waste facility or solid waste enterprise.

CIWMB staff looks forward to your cooperation with inspecting your property to determine the applicability of the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing and Disposal Regulatory Requirements with regard to the large stockpiles of concrete and asphalt and any other solid waste stored on your property.

If you have any questions or comments regarding this matter, please contact me at (916) 341-6324 or Jeff Hackett of my staff at (916) 341-6413.

Sincerely,



Susan Markie, Supervisor
Enforcement Assistance Section
Facilities Operations Branch
Permitting and Enforcement Division

Enclosure

cc: San Luis Obispo County Planning and Building Department

HISTORY

1. New section filed 9-26-97; operative 9-26-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 39).

§ 17379.1. Nonhazardous Ash Operation and Facility Restoration.

All nonhazardous ash transfer/processing operations and disposal/monofill facilities shall meet the following requirements:

(a) The operator shall provide the enforcement agency written notice of intent to perform site restoration, at least 30 days prior to beginning site restoration.

(b) The operator(s) and owner(s) shall provide site restoration necessary to protect public health, safety, and the environment.

(c) The operator shall ensure that the following site restoration procedures are performed upon completion of operation and termination of service:

(1) the operation or disposal/monofill facility grounds, excluding the disposal area, shall be cleaned of all nonhazardous ash, construction scraps, and other materials related to the operation or disposal/monofill facility, and these materials legally recycled, reused, or disposed of;

(2) all machinery shall be cleaned of nonhazardous ash prior to removal from the facility;

(3) all remaining structures shall be cleaned of nonhazardous ash.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 9-26-97; operative 9-26-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 39).

Article 5.9. Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements

§ 17380. Authority and Scope.

(a) Article 5.9 sets forth permitting requirements, tier requirements, and minimum operating standards for operations and facilities that receive, store, handle, transfer, or process construction and demolition (C&D) debris and inert debris, as defined herein. C&D debris and inert debris are specific types of solid waste that present a different potential threat to public health and safety and the environment than typical municipal solid waste, thus, can be handled with different regulatory oversight. This Article places operations and facilities that handle C&D debris and inert debris into the board's tiers to provide appropriate regulatory oversight to protect public health and safety and the environment.

(b) This Article is not applicable to operations and facilities that are wholly governed by regulations elsewhere in this Chapter. Operations and facilities that receive, store, handle, transfer, or process construction and demolition debris or inert debris that is commingled with solid waste that does not meet the definition of C&D debris or inert debris shall be regulated as transfer/processing operations or facilities pursuant to Articles 6.0 through 6.35, inclusive, of this Chapter.

(c) This Article is adopted pursuant to and for the purpose of implementing the California Integrated Waste Management Act of 1989 (Act) commencing with section 40000 of the Public Resources Code (PRC), as amended. These regulations should be read together with the Act.

(d) Nothing in this Article limits or restricts the power of any Federal, State, or local agency to enforce any provision of law that it is authorized or required to enforce or administer, nor to limit or restrict local governments from promulgating laws which are as strict as or stricter than the regulations contained in this Article. However, no local government may promulgate laws which are inconsistent with the provisions of this Article.

(e) No provision in this Article shall be construed as relieving any owner, or operator from obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports, or other requirements of other regulatory or enforcement agencies, includ-

ing, but not limited to, local health agencies, Regional Water Quality Control Boards, Department of Toxic Substances Control, air quality management districts or air pollution control districts, local land use authorities, and fire authorities.

(f) No provision of this Article is intended to affect the rights or duties of any party to, or in any way influence the interpretation of, any franchise agreement between a local government and its franchisee, any other agreement among any parties, or any local ordinance with respect to any aspect of solid waste handling, including without limitation solid waste collection, transportation, processing, and storage, and solid waste disposal.

(g) This Article does not apply to persons who generate C&D debris or inert debris in the course of carrying out construction, remodeling, repair, demolition or deconstruction of buildings, roads and other structures (collectively, "construction work") at the site of the construction work or to persons who own the land, buildings and other structures that are the object of the construction work, provided that such persons do not accept at the site any C&D debris or inert debris that is generated at any other location, unless it will be used in the construction work, and provided further that such persons do not allow C&D debris or inert debris, other than C&D debris or inert debris that is used in the construction work, to remain on the site of the construction work after the construction work is completed. For example, public works agencies constructing roads and bridges, road repair, airport runway construction, bridge and roadway work, levee work, flood control work, or landslide debris clean-up, and public or private contractors demolishing or constructing buildings are not subject to these regulations during the course of the construction work.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 43020 and 43021, Public Resources Code.

HISTORY

1. New article 5.9 (sections 17380-17386) and section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17380.1. Purpose.

(a) It is the board's intent in adopting this Article to encourage the recycling and reuse of C&D debris and inert debris that may otherwise be disposed in a solid waste disposal facility.

(b) These regulations are intended to provide a sufficient level of information and oversight to ensure that the receipt, storage, handling transfer, and processing of C&D debris and inert debris will be conducted in a manner which meets the purposes of the Act while protecting public health, safety and the environment.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 43020, and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17381. Definitions.

For the purposes of this Article, the following definitions shall apply. Additional definitions and related provisions that apply to this Article are found at California Code of Regulations (CCR), Title 14, Division 7, Chapter 3.0, Article 6.0, sections 17402 and 17402.5, and Article 4, section 17225 et seq.

(a) "Active Compost" as set forth in CCR, Title 14, Division 7, Chapter 3.1, Article 1, section 17852.

(b) "C&D" means Construction and Demolition debris.

(c) "CDI" means any combination of Construction and Demolition debris and Inert debris.

(d) "Compostable Material" means any organic material that when accumulated may become active compost.

(e) "Construction and Demolition Debris", or "C&D Debris" "is solid waste that is a portion of the waste stream defined as "construction and demolition wastes," as defined in Section 17225.15 of Article 4 of this Chapter, and means source separated or separated for reuse solid waste and recyclable materials, including commingled and separated materials, that result from construction work, that are not hazardous, as defined in CCR, Title 22, section 66261.3 et seq., and that contain no more than 1%

putrescible wastes by volume calculated on a monthly basis and the putrescible wastes do not constitute a nuisance, as determined by the EA.

(1) C&D debris includes only the following items which meet the above criteria:

(A) components of the building or structure that is the subject of the construction work including, but not limited to, lumber and wood, gypsum wallboard, glass, metal, roofing material, tile, carpeting and floor coverings, window coverings, plastic pipe, concrete, fully cured asphalt, heating, ventilating, and air conditioning systems and their components, lighting fixtures, appliances, equipment, furnishings, and fixtures;

(B) tools and building materials consumed or partially consumed in the course of the construction work including material generated at construction trailers, such as blueprints, plans, and other similar wastes;

(C) cardboard and other packaging materials derived from materials installed in or applied to the building or structure or from tools and equipment used in the course of the construction work; and

(D) plant materials resulting from construction work when commingled with dirt, rock, inert debris or C&D debris.

(2) C&D debris expressly excludes, commingled office recyclables and, except as provided in subdivision 17381 (e) above, commingled commercial solid waste and commingled industrial solid waste as they are defined in Title 27, CCR section 20164.

(3) Notwithstanding anything to the contrary in this Article, C&D debris includes material, whether or not from construction work, that is generally similar to C&D debris and that is separated for reuse, that is not hazardous, that contains no putrescible wastes and that can be processed without generating any residual, provided that the material is generated by an activity that is similar to, or is directly or indirectly related to, construction work, including without limitation: manufacturing materials for use in construction work, such as wood products, clay or ceramic products, plumbing systems, electrical equipment, metal work and HVAC systems.

(f) "Construction and Demolition Wood Mulch" or "C&D Mulch" means source separated wood waste that is not compostable material (C&D mulch feedstock), including that portion of C&D debris that is lumber or wood, which has been mechanically reduced in size. C&D mulch feedstock does not include food material, animal material, biosolids, mixed solid waste, chromated copper arsenate (CCA) pressure treated wood, wood containing lead-based paint, or mixed C&D debris.

(g) "Construction Work" means construction, remodeling, repair, demolition or deconstruction of buildings, other structures, roads, parking lots, and similar paved or covered surfaces.

(h) "Emergency Construction and Demolition/Inert Debris Processing Operation" means a site that is established due to a proclamation of a state of emergency or local emergency as provided in CCR, Title 14, Division 7, Chapter 3.0, Article 3, sections 17210.1(j) and (k).

(i) "Fully Cured Asphalt" means that the material must be at ambient temperature, be substantially hardened and be inelastic.

(j) "Handling" means the receipt, collection, transportation, storage, transfer, or processing of solid waste and recyclable materials.

(k) "Inert Debris" means solid waste and recyclable materials that are source separated or separated for reuse, do not contain hazardous waste (as defined in CCR, Title 22, section 66261.3 et. seq.) or soluble pollutants at concentrations in excess of applicable water quality objectives and do not contain significant quantities of decomposable waste. Inert debris may not contain more than 1% putrescible wastes by volume calculated on a monthly basis and the putrescible wastes shall not constitute a nuisance, as determined by the EA. Gravel, rock, soil, sand and similar materials, whether processed or not, that have never been used in connection with any structure, development, or other human purpose are not inert debris and may be commingled with inert debris.

(l) "Type A inert debris" includes but is not limited to concrete (including fiberglass or steel reinforcing bar embedded in the concrete), fully cured asphalt, glass, fiberglass, asphalt or fiberglass roofing shingles, brick, slag, ceramics, plaster, clay and clay products. Type A inert debris is waste that does not contain soluble pollutants at concentrations in ex-

cess of water quality objectives and has not been treated in order to reduce such pollutants. The board, upon consultation with the State Water Resources Control Board, will determine on a case by case basis whether materials not listed in this subdivision qualify as Type A inert debris.

(2) "Type B inert debris" is solid waste that is specifically determined to be inert by the applicable RWQCB, such as treated industrial wastes and de-watered bentonite-based drilling mud, but excluding Type A inert debris.

(f) "Inert Debris Engineered Fill Operation" means a disposal activity exceeding one year in duration in which fully cured asphalt, uncontaminated concrete (including steel reinforcing rods embedded in the concrete), brick, ceramics, clay and clay products, which may be mixed with rock and soil, are spread on land in lifts and compacted under controlled conditions to achieve a uniform and dense mass which is capable of supporting structural loading as necessary, and having other characteristics appropriate for an end use approved by all governmental agencies having jurisdiction (e.g., roads, building sites, or other improvements) where an engineered fill is required to facilitate productive use of the land. The engineered fill shall be constructed and compacted in accordance with all applicable laws and ordinances and shall be certified by a Civil Engineer, Certified Engineering Geologist, or similar professional licensed by the State of California.

(m) "Inert Debris Processing Facility" means a site that receives 1500 tons or more per operating day of any combination of Type A and Type B inert debris, or any amount of Type B inert debris, for storage, handling, transfer, or processing.

(n) "Inert Debris Type A Disposal Facility" means a site where only Type A inert debris is disposed to land. Inert debris Type A disposal facilities do not include inert debris engineered fill operations.

(o) "Inert Debris Type A Processing Operation" means a site that receives less than 1500 tons per operating day of only Type A inert debris for storage, handling, transfer, or processing.

(p) "Large Volume C&D Wood Debris Chipping and Grinding Facility" means a site that receives 500 tons per operating day or more of C&D mulch feedstock for purposes of processing it into C&D mulch.

(q) "Large Volume Construction and Demolition/Inert (CDI) Debris Processing Facility" means a site that receives 175 tons or more of any combination of C&D debris and Type A inert debris per operating day for the purposes of storage, handling, transfer, or processing.

(r) "Material Production Facility" means a facility that primarily handles raw materials to produce a new product that is a rock product operation (i.e., an "aggregate" operation), a hot mix asphalt plant, or a concrete, concrete product or a Portland cement product manufacturing facility.

(s) "Medium Volume C&D Wood Debris Chipping and Grinding Facility" means a site that receives at least 200 tons per operating day and less than 500 tons per operating day of C&D mulch feedstock for purposes of processing it into C&D mulch.

(t) "Medium Volume Construction and Demolition/Inert (CDI) Debris Processing Facility" means a site that receives at least 25 tons per operating day and less than 175 tons per operating day of any combination of C&D debris and Type A inert debris for the purposes of storage, handling, transfer, or processing.

(u) "Physical Contaminants" means human-made inert products contained within feedstocks, including, but not limited to, glass, metal, and plastic.

(v) "Processing" means controlled separation, recovery, volume reduction, or recycling of solid waste including, but not limited to, organized, manual, automated, or mechanical sorting; chipping, grinding, shredding or baling; the use of vehicles for spreading of waste for the purpose of recovery; and the use of conveyor belts, sorting lines or volume reduction equipment.

(w) "Putrescible Wastes" means solid wastes that are capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances because of odors, vectors, gases or other offensive conditions, and include materials such as, but not limited to food wastes, offal and dead

animals. The EA shall determine on a case-by-case basis whether or not a site is handling putrescible wastes.

(x) "Residual" means the solid waste destined for disposal, further transfer/processing as defined in section 17402(a)(30) or (31) of Article 6.0, or transformation which remains after processing has taken place and is calculated in percent as the weight of residual divided by the total incoming weight of materials. Notwithstanding, for purposes of this Article, "residual" excludes any inert debris that is destined for or disposed in an inert debris engineered fill operation. Further notwithstanding, for purposes of this Article, "further transfer/processing" does not include processing that occurs at a CDI recycling center or an inert debris recycling center, as described in Section 17381.1(a) of this Article, or at a recycling center as defined at Section 17402.5(d) of Article 6.0 of this Chapter.

(y) "Separated for Reuse" means materials, including commingled recyclables, that have been separated or kept separate from the solid waste stream for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace, and includes materials that have been "source separated".

(z) "Site" means the area where the handling of solid waste and/or recyclable materials occurs at a recycling center, CDI debris processing operation or facility, inert debris processing operation or facility, or C&D wood debris chipping and grinding operation or facility.

(aa) "Site Restoration" means removing unprocessed or processed solid waste and recyclable material from the site to allow reuse of the property.

(bb) "Small Volume C&D Wood Debris Chipping and Grinding Operation" means a site that receives less than 200 tons per operating day of C&D mulch feedstock for purposes of processing it into C&D mulch.

(cc) "Small Volume Construction and Demolition/Inert (CDI) Debris Processing Operation" means a site that receives less than 25 tons of any combination of C&D debris and Type A inert debris per operating day for the purposes of storage, handling, transfer, or processing.

(dd) "Source Separated" means materials, including commingled recyclables, that have been separated or kept separate from the solid waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

(ee) "Storage" means the holding or stockpiling of processed or unprocessed C&D debris, C&D mulch, inert debris or recyclable materials for a temporary period, at the end of which the material either is recycled or is transferred elsewhere. Storage of C&D debris, C&D mulch, inert debris or recyclable materials for periods exceeding the limits set in this Article is deemed to be disposal and shall be regulated as set forth in the Consolidated Regulations for Treatment, Storage, Processing or Disposal of Solid Waste (commencing at CCR, Title 27, Division 1, Subdivision 1, Chapter 1, Article 1, section 20005).

(ff) "Vector" includes any insect or other arthropod, rodent, or other animal capable of transmitting the causative agents of human disease. NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17381.1. Activities That Are Not Subject to the Construction and Demolition/Inert Debris Regulatory Requirements.

(a) A site that receives only construction and demolition debris and inert debris (CDI) and which meets the requirements of this section shall be classified as a CDI recycling center. A site that receives only inert debris and which meets the requirements of this section shall be classified as an inert debris recycling center. CDI recycling centers and inert debris

recycling centers shall not be subject to any other requirements of this Article except as specified in this section.

(1) The CDI debris that a CDI recycling center receives shall have been separated at the point of generation.

(A) For the purposes of this section, "separated at the point of generation" means that the material has been separated from the solid waste stream by the generator of that material or by a processor prior to receipt at a CDI recycling center and has not been commingled with other solid waste or recyclable materials. For example, each material type must be transferred in separate containers to the recycling center. Notwithstanding, cardboard, lumber and metal may be commingled in a single container.

(2) An inert debris recycling center shall receive only Type A inert debris that is source separated or separated for reuse. The inert debris may be commingled in a single container.

(b) CDI recycling centers and inert debris recycling centers shall meet the following requirements:

(1) The residual shall be less than 10% by weight of the amount of debris received at the site, calculated on a monthly basis. Recycling center operators may report their residual percentage to the EA and the board on Form CIWMB 607 (see Appendix A).

(2) The amount of putrescible wastes in the CDI debris received at the site shall be less than 1% by volume of the amount of debris received at the site, calculated on a monthly basis, and the putrescible wastes shall not constitute a nuisance, as determined by the EA.

(c) Chipping and grinding of any material, or the receipt of chipped and ground material, is prohibited at CDI recycling centers.

(d) The following storage time limits apply to CDI recycling centers:

(1) CDI debris stored for more than 30 days that has not been processed and sorted for resale or reuse shall be deemed to have been unlawfully disposed and therefore subject to enforcement action, including the use of a Notice and Order as provided in section 18304.

(2) CDI debris that has been processed and sorted for resale or reuse, but remains stored on site for more than one year, shall be deemed to have been unlawfully disposed and therefore subject to enforcement action, including the use of a Notice and Order as provided in section 18304.

(3) Storage time limits do not apply to CDI recycling centers where a financial assurance mechanism pursuant to section 17384(c) has been approved by the board.

(4) At the EA's discretion, storage time limits for sorted and processed materials may be extended to the time specified in a land use entitlement for the site that has an express time limit for the storage of materials.

(5) CDI recycling center storage time limits may be extended for a specified period, if the operator submits to the EA a storage plan as described in section 17384(b) and if the EA finds, on the basis of substantial evidence, that the additional time does not increase the potential harm to public health, safety and the environment. The EA may consult with other public agencies in making this determination. The extended storage term, any applicable conditions the EA imposes and the EA's findings shall be in writing.

(e) The following storage limits apply to inert debris recycling centers:

(1) Inert debris stored for more than 6 months that has not been processed and sorted for resale or reuse shall be deemed to have been unlawfully disposed and therefore subject to enforcement action, including the use of a Notice and Order as provided in section 18304.

(2) Inert debris that has been processed and sorted for resale, or reuse, but remains stored on site for more than 18 months, shall be deemed to have been unlawfully disposed and therefore subject to enforcement action, including the use of a Notice and Order as provided in section 18304.

(3) Storage time limits do not apply to Type A inert debris recycling centers which are located at an inert debris engineered fill operation, an inert debris Type A disposal facility, or at a material production facility.

(4) Storage time limits do not apply to Type A inert debris recycling centers where a financial assurance mechanism pursuant to section 17384(c) has been approved by the board.

(5) At the EA's discretion, storage limits for sorted and processed materials may be extended to the time specified in a land use entitlement for the site that has an express time limit for the storage of materials.

(6) Inert debris recycling center storage limits may be extended for a specified period, if the operator submits to the EA a storage plan as described in section 17384(b) and if the EA finds, on the basis of substantial evidence, that the additional time does not increase the potential harm to public health, safety and the environment. The EA may consult with other public agencies in making this determination. The extended storage term, any applicable conditions the EA imposes and the EA's findings shall be in writing.

(f) Nothing in this section precludes the EA or the board from inspecting a site to verify that it is and has been operating in a manner that meets the requirements of this section, or from taking any appropriate enforcement action, including the use of a Notice and Order as provided in section 18304.

(g) In evaluating whether or not a particular site is in compliance with this section, the EA shall, among other things, do the following:

(1) If the EA has reason to believe that each load of debris received at a recycling center is not separated at the point of generation, is not source separated or is not separated for reuse, as applicable, or that the residual exceeds 10% of the total debris received per month, or that the amount of putrescible wastes exceeds 1% by volume of the total debris received per month, or material is being stored in excess of the applicable storage

limits, or that the site is not in compliance with any other requirement in this section, the EA may require the owner or operator to provide evidence that the recycling center is in compliance. The burden of proof shall be on the owner and operator of the recycling center to demonstrate it is in compliance.

(2) At the time that the EA requires a recycling center to provide evidence that it is in compliance with this section, the EA shall provide the owner and operator of the recycling center a written description of the information that has caused the EA to believe that the recycling center is not in compliance. Notwithstanding, the EA shall not be required to identify the name or other identifying information regarding any person(s) who has complained about the recycling center.

(h) Sites which do not meet the applicable requirements of this section do not qualify as recycling centers and shall comply with this Article and all laws and regulations applicable to them. The burden of proof shall be on the owner and operator of a site to demonstrate that the activities at the site are not subject to the requirements of this Article.

NOTE: Authority cited: Section 40502, 43020 and 43021, Public Resources Code. Reference: 40053, 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17381.2. Regulatory Tiers Placement for CDI Debris and Inert Debris Processing Operations and Facilities.

Construction & Demolition and Inert Debris Tier Placement

Not Subject To Article 5.9	Excluded Operations Tier Section 17382	EA Notification Tier	Registration Tier	Full Solid Waste Facility Permit
• CDI Recycling Centers Section 17381.1	• Containers used to store C&D debris at the place of generation	• Small Volume CDI debris processing operations (less than 25 tons per day — Section 17383.4	• Medium Volume CDI debris processing facilities (25 tons per day to up to less than 175 tons per day) Section 17383.3	• Large Volume CDI debris processing facilities (175 tons per day or more) — Section 17383.5
• Alternative Daily Cover at solid waste disposal facilities per 27 CCR 20680	• 15 cubic yards or less of separated for reuse debris	• Small Volume C&D Wood Debris Chipping and Grinding Operations (less than 200 tons per day) — Section 17383.3	• Medium Volume C&D Wood Debris Chipping and Grinding Facilities (200 to <500 tons per day) — Section 17383.3	• Inert Debris Processing Facility (1500 tons per day or more) of any combination of Type A and Type B inert debris or any amount of Type B inert debris Section 17383.7
• Wood waste facilities pursuant to PRC 40195.1(b)	• Specified chipping and grinding activities	• Emergency CDI processing operations — Section 17383.8		
• Inert Debris Recycling Centers Section 17381.1	• Specified Grading Activities	• Inert debris Type A only processing operations (less than 1500 tons per day) Section 17383.6-1		
• See Section 17402.5 for other Activities Not Subject to the Regulations				
• Road building and specified public works activities Section 17380(g)				Large Volume C&D Wood Debris Chipping and Grinding Facilities (500 tons per day or more) — Section 17383.3

NOTE: THERE ARE NO FACILITIES PLACED WITHIN THE STANDARDIZED TIER

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17382. Excluded Activities.

(a) The following activities do not constitute CDI debris processing, inert debris processing, or chipping and grinding operations or facilities for the purposes of this Article and are not required to meet the requirements set forth herein:

(1) Containers used to store C&D debris or inert debris at the place of generation.

(2) Locations where 15 cubic yards or less per day of separated for reuse material is handled.

(3) Grading or clearing of land that is consistent with local ordinances.

(4) Chipping and grinding of lumber or other wood material which meet any of the following criteria;

(A) The chipping and grinding activity handles materials derived from and applied to lands owned or leased by the same person, including a parent or subsidiary of a corporate owner; or

(B) Handling any combination of green material, additives, amendments, compost, or chipped and ground material that does not exceed 500 cubic yards on-site at any one time; or

(C) The activity is located at the site of biomass conversion as defined in PRC section 40106 and is for use in biomass conversion at that site; or

(D) The activity is part of a silvicultural operation or a wood, paper, or wood product manufacturing operation; or

(E) The storage of bagged chipped and ground material.

(b) Nothing in this section precludes the EA or the board from inspecting an excluded activity to verify that the activity is being conducted in a manner that qualifies as an excluded activity, or from taking any appropriate enforcement action, including the use of a Notice and Order. The burden of proof shall be on the owner and operator to demonstrate that the activities are excluded pursuant to this section.

NOTE: Authority cited: 40502, 43020 and 43021, Public Resources Code. Reference: 40053, 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17383. State Minimum Standards.

(a) This section sets forth minimum standards that apply to CDI debris processing, inert debris processing and C&D wood debris chipping and grinding operations and facilities.

(b) All small, medium and large CDI debris processing operations and facilities, inert debris processing operations and facilities and small, medium and large C&D wood debris chipping and grinding operations and facilities shall meet the State Minimum Standards requirements of CCR, Title 14, Division 7, Chapter 3.0, Article 6.2 and sections 17406.1, 17406.2 of Article 6.1 and 17414 of Article 6.3.

(c) In addition, medium and large CDI debris processing facilities, inert debris processing facilities and medium and large volume C&D wood debris chipping and grinding facilities shall meet the State Minimum Standards requirements of CCR, Title 14, Division 7, Chapter 3.0, Article 6.35.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 43020, 43021, 43200 and 43209, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17383.1. Multiple Wood Debris Chipping and Grinding Activities.

All operations and facilities that receive lumber or wood material and mechanically reduce the material in size are subject to regulation under either Chapter 3 (Minimum Standards for Solid Waste Handling and Disposal) or Chapter 3.1 (Composting Operations Regulatory Requirements) and shall be further regulated as follows: If multiple waste streams, such as C&D wood debris and compostable green material, are handled at one location or site as determined by the EA, the site shall be deemed a single site and shall comply with the permitting requirements of Chapter 3, Article 5.9, Article 6.0 or Chapter 3.1 as determined by the EA. All material handled at the site shall count toward determining the appropriate regulatory tier for the operation or facility. Notwithstanding the above, each separate activity will be required to meet the State Minimum Standards applicable to the specific waste stream being handled.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Section 40053, 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17383.2. Activities at Solid Waste Facilities.

(a) C&D wood debris chipping and grinding operations and facilities and CDI debris and inert debris processing operations and facilities are not required to obtain a separate permit or meet the notification requirements of this Article if the activity is occurring at a facility that has a full solid waste facilities permit and the permit authorizes the activity either through a specific condition in the permit or as a described and approved activity in a Report of Facility Information.

(b) Notwithstanding, C&D wood debris chipping and grinding activities when located at a solid waste facility which has a full solid waste facilities permit shall satisfy the requirements of sections 17383 and 17383.3 (b) through (k) except if material is used on site.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17383.3. C&D Wood Debris Chipping and Grinding Operations and Facilities.

(a) C&D wood debris chipping and grinding operations and facilities conduct chipping and grinding activities to produce C&D mulch. Authorized chipping and grinding activities do not produce active compost, but mechanically reduce the size of lumber and other wood material to produce C&D mulch. The C&D wood debris chipping and grinding operation or facility shall satisfy the appropriate tier requirements. A small volume C&D wood debris chipping and grinding operation shall comply with the EA Notification requirements set forth in CCR, Title 14, Division 7, Chapter 5.0, Article 3.0, commencing at section 18100 et seq. A medium volume C&D wood debris chipping and grinding operation shall comply with the Registration Permit tier requirements set forth in CCR, Title 14, Division 7, Chapter 5.0, Article 3.0, commencing at section 18100 et seq. A large volume C&D wood debris chipping and grinding facility shall comply with the Full Permit tier requirements set forth in CCR, Title 27, Division 2, Subdivision 1, Chapter 4, commencing with section 21563. To the greatest extent possible, all inspections shall be unannounced and shall be conducted at irregular intervals. Except as otherwise specified in this section, small volume C&D wood debris chipping and grinding activities shall comply with all requirements applicable to small volume CDI debris processing operations, medium volume C&D wood debris chipping and grinding facilities shall comply with all requirements applicable to large volume CDI processing facilities, and large volume C&D wood debris chipping and grinding facilities shall comply with all requirements applicable to large volume CDI debris processing facilities.

(b) All of the following requirements for the storage and stockpiling of C&D mulch feedstock, material being processed and finished C&D mulch apply:

(1) Unprocessed feedstock may be stored on site prior to processing up to 30 days. Unprocessed feedstock stored for more than 30 days shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(2) C&D mulch shall be removed from the site within 90 days from processing. C&D mulch stored for more than 90 days shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(3) If the temperature of the unprocessed feedstock or C&D mulch reaches 50 degrees Celsius (122 degrees Fahrenheit), then the site shall be regulated as a compostable material handling operation or facility, as set forth in Chapter 3.1 commencing with Article 1, section 17850.

(4) The maximum amount of material that may be stored on the site, including unprocessed material, material that is being processed, and material that has been processed, is that amount which is the product of 30 days multiplied by the maximum amount of incoming material permitted per day.

(5) Storage time limits may be extended in accordance with sections 17384 (a) (Land Use Entitlement), 17384 (b) (Storage Plan), and 17384(c) Financial Assurances of this Article.

(c) All the following requirements for the inspection of C&D mulch feedstock apply:

(1) The feedstock shall undergo load checking to ensure that physical contaminants in the feedstock are reduced to no greater than 1% of total feedstock, by weight. Load checking shall include both visual observation of incoming loads of feedstock and load sorting to quantify the percentage of contaminating materials.

(2) A minimum of 1% of daily incoming feedstock volume or at least one truckload per day, whichever is greater, shall be inspected visually. If a visual load check indicates a contamination level is potentially greater than 1%, a representative sample shall be taken, physical contaminants shall be collected and weighed, and the percentage of physical contami-

nants determined. The load shall be rejected if physical contaminants are greater than 1% of total weight.

(3) Upon request of the EA, the operator shall take a representative sample of feedstock, shall collect and weigh physical contaminants, and shall calculate the percentage of physical contaminants in the sample.

(4) The operator shall take adequate measures through signage, training, load checking, detection systems, and/or chemical analysis to avoid incorporating any chromated copper arsenate (CCA) pressure treated wood and lead based painted materials into C&D mulch. Such contaminated feedstock shall be stored in a designated area for proper handling and disposition.

(5) The operator's employees shall be adequately trained to perform the activities specified in this section.

(d) Operations and facilities producing C&D mulch shall maintain all records demonstrating compliance with this section.

(e) All C&D wood debris chipping and grinding activities shall minimize odor impacts.

(f) The operator shall provide fire prevention, protection and control measures, including, but not limited to, temperature monitoring of windrows and piles, adequate water supply for fire suppression, and the isolation of potential ignition sources from combustible materials. Fire lanes shall be provided to allow fire control equipment access to all operation areas. These requirements are in addition to the requirement for a Fire Prevention, Control and Mitigation Plan described in sections 17386(a)(19), 18223(a)(19) and 18223.5(a)(20).

(g) If C&D debris other than C&D wood debris is accepted at the site, the site shall be regulated as a CDI processing operation or facility under this Article or under in the Transfer/Processing Regulatory requirements (commencing at section 17400), as appropriate.

(h) Should the EA have reason to believe that a C&D wood debris chipping and grinding material handler is engaging in other activities that constitute or are deemed to be disposal, the burden of proof shall be on the owner and operator of the site to demonstrate otherwise.

(i) Each operator of a small volume C&D wood debris chipping and grinding operation shall file with the EA, together with its application for an EA Notification, an Operation Plan (as more fully described in section 17386 of this Article). Each operator of a medium volume C&D wood debris chipping and grinding facility shall file with the EA, together with its application for a Registration Permit, a Facility Plan (as more fully described in Article 3.2, section 18223 of this Chapter). Each operator of a large volume C&D wood debris chipping and grinding facility shall file with the EA, together with its application for a Full Permit, a Facility Report (as more fully described in Article 3.2, section 18223.5 of this Chapter). The information contained in the Plan or Report shall be reviewed by the EA to determine whether it is complete and correct as defined in CCR, Title 14, Chapter 5, Article 3.0, section 18101.

(j) Where the public may have access to them, the debris piles and other piles of materials on site must be stable and otherwise configured so as to protect the public health and safety.

(k) Each operator shall determine the weight of all material received at the operation or facility for handling and shall maintain records of the weight of materials in accord with State Minimum Standards. Weight shall be determined by the use of scales which may be located at the operation or facility or off-site.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17383.4. Small Volume Construction and Demolition/Inert Debris Processing Operations.

All small volume CDI debris processing operations shall comply with the EA Notification requirements set forth in CCR, Title 14, Division 7, Chapter 5.0, Article 3.0, commencing at section 18100. These operations shall be inspected quarterly by the EA to verify compliance with minimum standards. To the greatest extent possible, all inspections shall be

unannounced and shall be conducted at irregular intervals. The operator shall specify the operation's boundary area in the operating record.

(a) CDI debris stored for more than 15 days that has not been processed and sorted for resale or reuse shall be deemed to have been unlawfully disposed and therefore subject to enforcement action, including the use of a Notice and Order as provided in section 18304.

(b) CDI debris that has been processed and sorted for resale or reuse, but remains stored on site for more than one year, shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(c) The maximum amount of material that may be stored on the site, including unprocessed material, material that is being processed, and material that has been processed, is that amount which is the product of 30 days multiplied by the maximum amount of incoming material permitted per day.

(d) Storage time limits may be extended in accordance with sections 17384 (a) (Land Use Entitlement), 17384 (b) (Storage Plan), and 17384(c) Financial Assurances of this Article.

(e) Residual material shall be removed from the site within 48 hours or at an alternate frequency approved by the EA.

(f) Each operator of a Small Volume CDI Processing Operation shall file with the EA, together with its application for an EA Notification, a Small Volume CDI Processing Operation Plan (as more fully described in Article 3.2, section 17386 of this Article). The information contained in the Plan shall be reviewed by the EA to determine whether it is complete and correct as defined in CCR, Title 14, Chapter 5, Article 3.0, section 18101.

(g) Where the public may have access to them, the debris piles and other piles of materials on site must be stable and otherwise configured so as to protect the public health and safety.

(h) C&D Mulch that is not compostable material produced at a small volume CDI processing operation must meet all requirements of a small volume C&D wood debris chipping and grinding operation, including the storage limits.

(i) Each operator shall determine the weight of all material received at the operation for handling and shall maintain records of the weight of materials in accord with State Minimum Standards. Weight shall be determined by the use of scales which may be located at the operation or off-site.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17383.5. Medium Volume Construction and Demolition/Inert Debris Processing Facilities.

All medium volume CDI debris processing facilities subject to this Article shall comply with the Registration Permit tier requirements set forth in CCR, Title 14, Division 7, Chapter 5.0, Article 3.0, commencing at section 18100 et seq..

(a) The amount of residual in the C&D debris and type A inert debris shall be less than 40 % of the amount of such material received by weight. The residual amount is calculated on a monthly basis. Facilities which do not meet the 40 % residual requirement of this subsection shall obtain a Full Permit and shall comply with the requirements applicable to a Large Volume CDI Debris Processing Facility. If the EA determines that a Medium Volume CDI Debris Processing Facility has exhibited a pattern and practice of failing to comply with the provisions of this subsection, the EA shall take appropriate enforcement action.

(b) CDI debris stored for more than 15 days that has not been processed and sorted for resale or reuse shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(c) CDI debris that has been processed and sorted for resale or reuse, but remains stored on site for more than one year, shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(d) The maximum amount of material that may be stored on the site, including unprocessed material, material that is being processed, and material that has been processed, is that amount which is the product of 30 days multiplied by the maximum amount of incoming material permitted per day.

—(e) Storage time limits may be extended in accordance with sections 17384 (a) (Land Use Entitlement), 17384 (b) (Storage Plan), and 17384(c) Financial Assurances of this Article.

(f) Residual material shall be removed from the site within 48 hours or at an alternate frequency approved by the EA.

(g) Each operator of a medium volume CDI processing facility shall file with the EA, together with its application for a Registration Permit, a CDI Processing Facility Plan (as more fully described in Article 3.2, section 18223 of this Chapter). The information contained in the Plan shall be reviewed by the EA to determine whether it is complete and correct as defined in CCR, Title 14, Chapter 5, Article 3.0, section 18101.

(h) Medium volume CDI debris processing facilities shall be inspected monthly by the EA in accordance with PRC section 43218. To the greatest extent possible, all inspections shall be unannounced and shall be conducted at irregular intervals.

(i) Where the public may have access to them, the debris piles and other piles of materials on site must be stable and otherwise configured so as to protect the public health and safety.

(j) C&D Mulch that is not compostable material produced at a medium volume CDI processing operation must meet all requirements of a medium volume chipping and grinding operation, including the storage limits.

(k) If a medium volume CDI processing facility exceeds any combination of the following limitations, which are more fully described in this Section 17383.5, three (3) or more times within any two (2) year period which the EA determines constitutes a violation of this Article, the facility no longer qualifies for a Registration Permit under this section. Upon the third such violation, the EA shall notify the operator in writing that the facility no longer qualifies for a Registration Permit, and the operator must within 30 days apply for a Full Permit as if it were a large volume CDI processing facility pursuant to Section 17383.6. In addition, the EA shall issue a cease and desist order pursuant to Section 18304 directing, among other things, that the operator immediately cease accepting material at the site until the operator has demonstrated to the EA that it has corrected the violation and eliminated the cause of the violation. The limitations to which this subdivision applies are:

1. Maximum amount of residual specified in Subsection 17383.5(a).
2. Maximum tonnage received per day as specified in Subsection 17381(t)
3. Maximum amount of material on site as specified 17383.5(d).

(l) Each operator shall determine the weight of all material received at the facility for handling and shall maintain records of the weight of materials in accord with State Minimum Standards. Weight shall be determined by the use of scales which may be located at the facility or off-site. NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17383.6. Large Volume Construction and Demolition/Inert Debris Processing Facilities.

All large volume CDI debris processing facilities subject to this Article shall comply with the Full Permit tier requirements set forth in Title 27, CCR, Division 2, Subdivision 1, Chapter 4, commencing with section 21450.

(a) CDI debris stored for more than 15 days that has not been processed and sorted for resale or reuse shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(b) CDI debris that has been processed and sorted for resale, or reuse, but remains stored on site for more than one year, shall be deemed to have

been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(c) The maximum amount of material that may be stored on the site, including unprocessed material, material that is being processed, and material that has been processed, is that amount which is the product of 30 days multiplied by the maximum amount of incoming material permitted per day.

(d) Storage time limits may be extended in accordance with sections 17384 (a) (Land Use Entitlement), 17384 (b) (Storage Plan), and 17384(c) Financial Assurances of this Article.

(e) Residual material shall be removed from the site within 48 hours or at an alternate frequency approved by the EA.

(f) Each operator of a large volume CDI processing facility shall file with the EA, together with its application for a Full Permit, a Large Volume CDI Processing Facility Report (as more fully described in Article 3.2, section 18223.5 of this Chapter). The information contained in the Report shall be reviewed by the EA to determine whether it is complete and correct as defined in CCR, Title 14, Chapter 5, Article 3.0, section 18101.

(g) Large volume CDI debris processing facilities shall be inspected monthly by the EA in accordance with PRC section 43218. To the greatest extent possible, all inspections shall be unannounced and shall be conducted at irregular intervals.

(h) Where the public may have access to them, the debris piles and other piles of materials on site must be stable and otherwise configured so as to protect the public health and safety.

(i) C&D Mulch that is not compostable material produced at a large volume CDI processing operation must meet all requirements of a large volume C&D wood debris chipping and grinding operation, including the storage limits.

(j) Each operator shall determine the weight of all material received at the facility for handling and shall maintain records of the weight of materials in accord with State Minimum Standards. Weight shall be determined by the use of scales which may be located at the facility or off-site. NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).
2. Editorial correction inserting inadvertently omitted HISTORY 1 (Register 2003, No. 29).

§ 17383.7. Inert Debris Type A Processing Operations.

All inert debris Type A processing operations subject to this Article shall comply with the EA Notification requirements set forth in CCR Title 14, Division 7, Chapter 5.0, Article 3.0 and commencing with section 18100.

(a) Inert debris stored for more than 6 months that has not been processed and sorted for resale or reuse shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(b) Inert debris that has been processed and sorted for resale or reuse, but remains stored on site for more than 18 months, shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(c) The maximum amount of material that may be stored on the site, including unprocessed material, material that is being processed, and material that has been processed, is that amount which is the product of 30 days multiplied by the maximum amount of incoming material permitted per day.

(d) Storage time limits may be extended in accordance with sections 17384 (a) (Land Use Entitlement), 17384 (b) (Storage Plan), and 17384(c) Financial Assurances of this Article.

(e) Residual material shall be removed from the site within 48 hours or at an alternate frequency approved by the EA.

(f) These operations shall be inspected by the EA to verify compliance with minimum standards. Inspections shall be conducted quarterly. To the greatest extent possible, all inspections shall be unannounced and shall be conducted at irregular intervals.

(g) The operator shall specify the operation's boundary area in the operating record.

(h) Each operator of an inert debris Type A processing operation shall file with the EA, together with its application for an EA Notification, an Inert Debris Type A Processing Operation Plan (as more fully described in Article 3.2, section 17386 of this Article). The information contained in the Plan shall be reviewed by the EA to determine whether it is complete and correct as defined in CCR, Title 14, Chapter 5, Article 3.0, section 18101.

(i) Where the public may have access to them, the debris piles and other piles of materials on site must be stable and otherwise configured so as to protect the public health and safety.

(j) Each operator shall determine the weight of all material received at the operation for handling and shall maintain records of the weight of materials in accord with State Minimum Standards. Weight shall be determined by the use of scales which may be located at the operation or off-site.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Section 40053, 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17383.8. Inert Debris Type A and Type B Processing Facilities.

All inert debris Type A and Type B processing facilities subject to this Article shall comply with the Full Permit tier requirements set forth in Title 27, CCR, Division 2, Subdivision 1, Chapter 4, commencing with section 21450.

(a) Inert debris stored for more than 6 months that has not been processed and sorted for resale or reuse shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(b) Inert debris that has been processed and sorted for resale or reuse, but remains stored on site for more than 18 months, shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(c) The maximum amount of material that may be stored on the site, including unprocessed material, material that is being processed, and material that has been processed, is that amount which is the product of 30 days multiplied by the maximum amount of incoming material permitted per day.

(d) Storage time limits may be extended in accordance with sections 17384 (a) (Land Use Entitlement), 17384 (b) (Storage Plan), and 17384(c) Financial Assurances of this Article.

(e) Residual material shall be removed from the site within 48 hours or at an alternate frequency approved by the EA.

(f) Each operator of an Inert Debris Type A and Type B Processing Facility shall file with the EA, together with its application for a Full Permit, an Inert Debris Type A and Type B Processing Facility Report (as more fully described in Article 3.2, Section 18223 of this Chapter). The information contained in the Report shall be reviewed by the EA to determine whether it is complete and correct as defined in CCR, Title 14, Chapter 5, Article 3.0, section 18101.

(g) Inert debris processing facilities shall be inspected monthly by the EA in accordance with PRC section 43218. To the greatest extent possible, all inspections shall be unannounced and shall be conducted at irregular intervals.

(h) Where the public may have access to them, the debris piles and other piles of materials on site must be stable and otherwise configured so as to protect the public health and safety.

(i) Each operator shall determine the weight of all material received at the facility for handling and shall maintain records of the weight of materials in accord with State Minimum Standards. Weight shall be determined by the use of scales which may be located at the facility or off-site.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17383.9. Emergency Construction and Demolition/Inert Debris Processing Operations.

(a) All emergency CDI debris processing operations shall comply with the EA Notification requirements set forth in CCR, Title 14, Division 7, Chapter 5.0, Article 3.0, section 18100 et. seq. Such operations may occur at locations which are not permitted solid waste facilities. These operations shall be inspected by the EA as necessary to verify compliance with minimum standards, but in no case less than monthly. To the greatest extent possible, all inspections shall be unannounced and shall be conducted at irregular intervals. The operator shall specify the operation's boundary area in the operating record.

(b) In addition, the emergency CDI debris processing operations shall meet the following requirements:

(1) The land owner has certified his/her knowledge of the proposed activity and agrees to insure proper termination.

(2) The operation shall not exist for a period of time greater than 120 days from the date that the EA Notification is received by the EA. Upon receipt of the reports required by CCR, Title 14, Division 7, Chapter 3, Article 3, section 17210.5, the operation may continue for an additional period as specified by the EA to assist in the recovery and clean-up.

(3) The operation shall receive only C&D debris and Type A inert debris in any amounts that are generated by the event that caused the state of emergency.

(4) If the operation accepts, processes, or stores hazardous or household hazardous waste, the activities must be in compliance with requirements of the Department of Toxic Substances Control and other appropriate authorities or agencies.

(c) The emergency CDI debris processing operation shall cease operation should the EA determine that any of the following occurs:

(1) The emergency CDI debris processing operation is not being used exclusively to handle the CDI debris resulting from the state of emergency;

(2) The emergency CDI debris processing operation is no longer necessary in accordance with CCR, Title 14, Division 7, Chapter 3, Article 3, section 17210.2;

(3) The emergency CDI debris processing operation will cause or contribute to a public health, safety or environmental problem;

(4) The operator is not utilizing disaster debris diversion programs to the extent feasible.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17383.10. Public Hearing.

(a) Provided that a comparable public hearing has not been held within the year preceding the EA's receipt of a complete and correct application, the EA shall hold an informational public hearing on an application for a Registration Permit or a Full Permit required under this Article. The EA may require the operator(s) of the facility or facilities that are the subject of the hearing to pay all costs incurred by the EA in connection with the hearing. The hearing may be combined with another hearing in which the EA participates that meets the criteria in this section. In the case of an application for a Full Permit, the hearing shall be held before the EA submits the proposed permit to the board for concurrence. In the case of an application for a Registration Permit, the hearing shall be held before the EA issues the permit. The EA shall submit to the board a statement that the hearing required by this section was held, in the case of a Full Permit, at the time the EA submits the proposed permit to the board for concurrence, or, in the case of a Registration Permit, at the time the EA submits a copy of the permit it has issued.

(b) The hearing shall meet the following criteria:

(1) Notice of the hearing shall be given pursuant to Government Code Section 65091, subdivisions (a) - (c), inclusive.

(2) Notice of the hearing shall also be given to the governing body of the jurisdiction within which the facility is located and to the State As-

sembly Member and the State Senator in whose districts the facility is located.

(3) The hearing shall be held in a suitable location not more than five (5) miles from the facility that is the subject of the hearing; provided that, if no suitable location exists within five (5) miles of the facility, as determined by the EA, the EA may designate an alternative suitable location that is as close to the facility as reasonably practical.

(4) The hearing shall be held on a day and at a time that the EA determines will enable attendance by residents living in the vicinity of the facility that is the subject of the hearing.

(c) EAs may undertake additional measures to extend public notice and to encourage attendance by any persons who may be interested in the facility that is the subject of the hearing.

NOTE: Authority Cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17384. Approval of Storage Time Limit Alternatives.

(a) At the EA's discretion, storage times for sorted and processed materials may be extended to the time specified in a land use entitlement for the site that has an express time limit for the storage of materials.

(b) Storage times at operations and facilities may be extended for a specified period, if the operator submits to the EA a storage plan as described herein and if the EA finds, on the basis of substantial evidence, that the additional time does not increase the potential harm to public health, safety and the environment. The EA may consult with other public agencies in making this determination. The extended storage term, any applicable conditions the EA imposes and the EA's findings shall be in writing. The operator must file amendments as necessary to maintain the accuracy of the storage plan. Failure to submit timely amendments may be cause for revocation of the storage limit extension. The storage plan must contain the following:

(1) Names of the operator and owner, and the key employee responsible for operation of the site;

(2) Describe the reason(s) for the storage limit extension;

(3) Describe the manner in which the material will be stored;

(4) Describe the manner in which activities are to be conducted at the facility during the period of the storage extension;

(5) Specify maximum site design capacity including the assumptions, methods, and calculations performed to determine the total site capacity;

(6) Provide information showing the types and the quantities of material to be stored. If tonnage was figured from records of cubic yards, include the conversion factor used;

(7) Identify transfer, recovery and processing equipment to be used on site, including classification, capacity and the number of units;

(8) Identify the planned method for final disposition of material stored at the site, including but not limited to materials being transferred to other facilities or operations for further processing, recycled materials, and solid waste.

(c) Storage times at operations, facilities and recycling centers may be extended if an operator provides proof of financial assurance pursuant to Title 27, Chapter 6, Subchapter 1, section 22240 et seq. satisfactory to the board for cleanup of any operation, facility or recycling center. The amount of financial assurance shall be based on the cost estimate, in current dollars, for removal and disposal of the debris by a third party as directed by the EA. A Clean Up Plan including a cost estimate shall be prepared by the operator using form CIWMB 643 and approved by the EA. Notwithstanding, an operator is not required to provide proof of financial assurance if the third party cost to clean up the site, as identified by the operator and approved by the EA, is less than \$5,000.

NOTE: Authority Cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17384.1. Final Site Cleanup.

All operations, facilities and recycling centers shall meet the following requirements:

(a) The operator shall provide the EA with 30 days written notice of its intent to terminate operations and perform site restoration.

(b) The operator shall provide site restoration necessary to protect public health, safety, and the environment.

(c) The operator shall ensure that the following site restoration procedures are performed upon completion of operations and termination of service:

(1) The site shall be cleaned of all solid waste and recycled materials including, but not limited to, construction and demolition and inert debris and other materials related to the operations.

(2) All machinery shall be cleaned and removed or stored securely.

(3) All remaining structures shall be cleaned of solid waste and recycled materials related to the operation.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17385. Pre-Existing Permits.

(a) If an activity subject to this Article is existing under a Registration Permit or Full Permit on the effective date of this Article, that activity may continue to operate until the operator applies for and obtains the appropriate permit or satisfies the requirements for notification, as applicable, as set forth in this Article. As set forth in section 17385(d), the EA shall notify the owner or operator what permit is required under this Article. The operator shall obtain the required permit or satisfy the requirements for notification in the same manner and within the same time frames as set forth in subsection 17385(b). For the purposes of this section, "existing" includes activities that are operating and activities that have not commenced operation but have received all local government land use approvals required under applicable law and have commenced physical development of the site or improvements on the site for purposes of the activity.

(b) If an activity subject to this Article is existing and does not have a Registration Permit or Full Permit on the effective date of this Article, that activity may continue to operate in substantially the same manner until the EA determines what permit or other documentation is required for the activity under this Article and notifies the owner or operator of its determination. The EA shall make that determination for all facilities and operations within its jurisdiction no sooner than 30 days and no later than 90 days from the effective date of this Article. If the EA determines that a Full Permit is required, the operator shall apply for and obtain that permit within 180 days from the date the owner or operator receives the EA's written determination, whichever first occurs. If the EA determines that a Registration Permit is required, the operator shall apply for and obtain that permit within 60 days from the date the owner or operator receives the EA's written determination, whichever first occurs. If the EA determines that EA notification under CCR, Title 14, Division 7, Chapter 5.0, Article 3.0, commencing at section 18100, is required, the operator shall comply with the EA notification requirements within 30 days from the date the owner or operator receives the EA's written determination, whichever first occurs. If an activity subject to this Article fails to obtain the required permit or submit documentation for EA notification within the specified time, the EA shall take appropriate enforcement action.

(c) Notwithstanding anything to the contrary in this Article, until that date which is two (2) years from the effective date of this Article (the "Temporary Permit Expiration Date") or any extension of such Temporary Permit Expiration Date, large volume CDI debris processing facilities which are existing on the effective date of this Article may elect to obtain and operate under a temporary Registration Permit pursuant to subsection (b) above, rather than a Full Permit. Operators of facilities so electing shall obtain temporary Registration Permits in the manner as set

forth in subsection (b) above. Operators of large volume CDI debris processing facilities that receive temporary Registration Permits under this subsection (c) shall apply for a Full Permit no later than one (1) year from the date the owner or operator of the facility receives notification from the EA that a Full Permit is required under this Article, whichever first occurs, as provided in subsection (b) above, and shall obtain a Full Permit no later than the Temporary Permit Expiration Date. Notwithstanding, the Temporary Permit Expiration Date may be extended by one or more periods not exceeding a total of three (3) years by the EA (the last such extension is the "Extended Temporary Permit Expiration Date") in the event that the EA finds that an operator, for reasons beyond its control, has been unable to obtain a Full Permit despite having exercised good faith and due diligence in attempting to obtain such a permit. Registration Permits obtained under this subsection (c) are temporary and shall expire no later than the Temporary Permit Expiration Date or the Extended Temporary Permit Expiration Date, whichever is applicable. The Full Permit that the operator obtains shall supercede, and cause the expiration of, the facility's temporary Registration Permit obtained under this subsection (c). If any large volume CDI debris processing facility fails to obtain the required Full Permit within the specified time, the EA shall take appropriate enforcement action.

(d) Waste handling activities which are existing on the effective date of this Article and which handle exclusively construction and demolition wastes, as defined in Section 17225.15 of Article 4 of this Chapter, that do not qualify as C&D debris under this Article shall obtain the appropriate permit as a transfer/processing operation or facility as provided in Articles 6.0 through 6.4, inclusive, of this Chapter. Notwithstanding, such activities shall obtain the necessary permits in the same manner and within the same time frames as if they were operations or facilities subject to this Article, as specified in this Section 17385, such that limited volume transfer operations (defined at section 17403.3) shall comply with EA notification requirements within 30 days from the date the owner or operator receives the written determination from the EA, whichever first occurs, medium volume transfer/processing facilities (defined at section 17403.6) shall obtain a Registration Permit within 60 days from the date the owner or operator receives the written determination from the EA, whichever first occurs, and large volume transfer/processing facilities (defined at 17403.7) shall obtain a Full Permit within 180 days from the date the owner or operator receives the written determination from the EA, whichever first occurs. Large volume transfer/processing facilities which handle exclusively construction and demolition wastes may elect to obtain and operate under a temporary Registration Permit in the same manner, under the same procedures and subject to the same limitations as a large volume CDI debris processing facility under subsection 17385(c). If an activity subject to this subsection fails to obtain the required permit or submit documentation within the specified time, the EA shall take appropriate enforcement action.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

§ 17386. Operation Plans.

(a) Each operator of a small volume CDI debris processing operation, inert debris processing operation Type A, or small volume C&D wood debris chipping and grinding operation that is required to obtain an EA Notification, as set forth in CCR, Title 14, Division 7, Chapter 5.0, Article 3.0, commencing at section 18100 shall file with the EA, together with its EA Notification, an Operation Plan. The Plan shall contain the following:

(1) Names of the operator and owner, and the key employee responsible for operation of the site;

(2) Schematic drawing all buildings and other structures showing layout and general dimensions of the operations area, including, but not limited to, unloading, storage, loading, and parking areas;

(3) Descriptive statement of the manner in which activities are to be conducted at the operation;

(4) Days and hours that the business is to operate. If the hours of debris receipt differ from the hours of material processing, each set of hours shall be stated. For businesses with continuous operations, indicate the start of the operating day for purpose of calculating amount of debris received per operating day. The operator may also indicate whether or not, and when, other activities, such as routine maintenance will take place, if those activities will occur at times other than those indicated above;

(5) Total acreage contained within the operating area;

(6) Operation design capacity including the assumptions, methods, and calculations performed to determine the total capacity;

(7) Information showing the types and the daily quantities of debris to be received

(8) In any calculations necessary as part of the plan, amounts shall be figured in tons. If tonnage is figured from cubic yards, include the conversion factors used as approved by the EA.

(9) Description of the methods used by the operation to comply with each State Minimum Standard required by CCR, Title 14, Division 7, Chapter 3.0, Article 5.9;

(10) Anticipated volume of quench or process water and the planned method of treatment, and disposal of any wastewater;

(11) Description of provisions to handle unusual peak loading;

(12) Description of transfer, recovery and processing equipment, including classification, capacity and the number of units;

(13) Planned method for final disposition of debris received at the operation, including but not limited to materials being transferred to other facilities or operations for further processing, recycled materials, and solid waste;

(14) Planned method for the storage and removal of salvaged material;

(15) Resume of management organization which will operate the operation;

(16) The operator shall record and retain records of any serious injury to the public occurring on-site and any complaint of adverse health effects to the public attributed to operations. Serious injury means any injury that requires inpatient hospitalization for a period in excess of 24 hours or in which a member of the public suffers a loss of any member of the body or suffers any degree of permanent disfigurement; and

(17) The operator shall retain a record of training and instruction completed in accordance with, Article 6.2, section 17410.3.

(18) A copy of the operator's Injury and Illness Prevention Plan (as applicable under current law).

(19) Fire Prevention, Control and Mitigation Plan ("Plan") which contains the following:

(A) Description of the measures the operator will take to prevent fires and to control and extinguish fires at the site;

(B) Identification and description of the equipment the operator will have available (on site and readily available off-site) to control and extinguish fires;

(C) Description of the measures the operator will take to mitigate the impacts of any fire at the site to the public health and safety and the environment;

(D) Description of the arrangements the operator has made with the local fire control authority having jurisdiction to provide fire prevention, control and suppression;

(E) Discussion of the ability of the local fire control authority to suppress fires at the site in light of the authority's personnel, expertise and equipment, the availability of water, access to the site and to flammable materials on the site, the nature of flammable materials on site, the quantity and dimensions of materials on the site, and the potential for subsurface fires in accumulations of flammable materials on the site.

(F) Evidence that the operator has submitted the Plan to the local fire control authority for review and that the authority has found it to be in compliance with the authority's applicable requirements.

(b) The operator must file amendments as necessary to maintain the accuracy of the Plan. Failure to submit timely amendments may be cause for suspension or revocation of the EA Notification.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

Article 5.95. Construction and Demolition Waste and Inert Debris Disposal Regulatory Requirements

§ 17387. Authority and Scope.

(a) Article 5.95 sets forth permitting requirements, tier requirements, and minimum operating standards for operations and facilities that dispose construction and demolition (C&D) waste and inert debris. This Article is not applicable to operations and facilities that are wholly governed in regulations elsewhere in this Chapter or Title 27.

(b) This Article is adopted pursuant to and for the purpose of implementing the California Integrated Waste Management Act of 1989 (Act) commencing with Section 40000 of the Public Resources Code (PRC), as amended. These regulations should be read together with the Act.

(c) Nothing in this Article limits or restricts the power of any Federal, State, or local agency to enforce any provision of law that it is authorized or required to enforce or administer, nor to limit or restrict local governments from promulgating laws which are as strict or stricter than the regulations contained in this Article. However, no local government may promulgate laws which are inconsistent with the provisions of this Article.

(d) No provision in this Article shall be construed as relieving any owner or operator from obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports, or other requirements of other regulatory or enforcement agencies, including, but not limited to, local health agencies, Regional Water Quality Control Boards, Department of Toxic Substances Control, air quality management districts or air pollution control districts, local land use authorities, and fire authorities.

NOTE: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New article 5.95 (sections 17387-17390) and section filed 12-26-2003; operative 2-24-2003 (Register 2003, No. 52).

§ 17387.5. Purpose.

(a) The purpose of this Article is to promote the health, safety and welfare of the people of the State of California, and to protect the environment by establishing minimum standards for the handling and disposal of C&D waste and inert debris at disposal sites.

(b) By adopting these standards, the board hereby sets forth performance standards for disposal sites which dispose C&D waste and inert debris and which are of State concern, as required by PRC sections 43020 and 43021, and sets forth minimum substantive requirements for operator's submission of information concerning individual disposal sites.

NOTE: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2003 (Register 2003, No. 52).

§ 17388. Definitions.

For the purposes of this Article, the following definitions shall apply. Additional definitions that apply to this Article are found at California Code of Regulations (CCR), Title 14, Division 7, Chapter 3, Article 6, sections 17402 and 17402.5, and Article 4, section 17225 and Title 27, Division 2, Chapter 2, Articles 1, and 2.

(a) "C&D" means construction and demolition, as in the term "C&D waste".

(b) "CDI" means any combination of construction and demolition waste and inert debris.

(c) "Construction and Demolition Waste" or "C&D Waste" means the nonhazardous waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures.

(d) "CDI Waste Disposal Facility" means a facility at which C&D waste, C&D waste together with inert debris (Type A or B) or inert debris (Type B) only is disposed.

(e) "Disposal" means the final deposition of C&D waste or inert debris onto land.

(f) "EA" means enforcement agency as defined in PRC section 40130.

(g) "Engineered Fill Activity" means fill that has been designed by an engineer to act as a structural element of a constructed work and has been placed under engineering inspection, usually with density testing. An engineered fill activity shall meet specifications prepared and certified for a specific project by a Civil Engineer, Certified Engineering Geologist, or similar professional licensed by the State of California, and includes requirements for placement, geometry, material, compaction and quality control.

(h) "Fill" means gravel, rock, soil, sand, uncontaminated concrete, or fully cured asphalt in conjunction with a construction project or grading.

(i) "Fully Cured Asphalt" means that the material must be at ambient temperature, be substantially hardened and be inelastic.

(j) "Grading" means any land excavation, filling, earth moving or combination thereof.

(k) "Inert Debris" means solid waste and recyclable materials that are source separated or separated for reuse and do not contain hazardous waste (as defined in CCR, Title 22, section 66261.3 et. seq.) or soluble pollutants at concentrations in excess of applicable water quality. Inert debris may not contain any putrescible wastes. Gravel, rock, soil, sand and similar materials whether processed or not, that have never been used in connection with any structure, development, grading or other similar human purpose, or that are uncontaminated, are not inert debris. Such materials may be commingled with inert debris.

(1) "Type A inert debris" includes but is not limited to concrete (including fiberglass or steel reinforcing bar embedded in the concrete), fully cured asphalt, crushed glass, fiberglass, asphalt or fiberglass roofing shingles, brick, slag, ceramics, plaster, clay and clay products. Type A inert debris is waste that does not contain soluble pollutants at concentrations in excess of water quality objectives and has not been treated in order to reduce such pollutants. The board, upon consultation with the State Water Resources Control Board, will determine on a case by case basis whether materials not listed in this subdivision qualify as Type A inert debris. The board and the State Water Resources Control Board may consider statewide and site-specific factors in making this determination.

(2) "Type B inert debris" is solid waste that is specifically determined to be inert by the applicable RWQCB, such as treated industrial wastes and de-watered bentonite-based drilling mud, but excluding Type A inert debris.

(j) "Inert Debris Engineered Fill Operation" means an activity exceeding one year in duration in which only the following inert debris may be used: fully cured asphalt, uncontaminated concrete (including steel reinforcing rods embedded in the concrete), crushed glass, brick, ceramics, clay and clay products, which may be mixed with rock and soil. Those materials are spread on land in lifts and compacted under controlled conditions to achieve a uniform and dense mass which is capable of supporting structural loading, as necessary, or supporting other uses such as recreation, agriculture and open space in order to provide land that is appropriate for an end use consistent with approved local general and specific plans (e.g., roads, building sites, or other improvements) where an engineered fill is required to facilitate productive use(s) of the land. Filling above the surrounding grade shall only be allowed upon the approval of all governmental agencies having jurisdiction. The engineered fill shall be constructed and compacted in accordance with all applicable laws and ordinances and in accordance with specifications prepared and

certified at least annually by a Civil Engineer, Certified Engineering Geologist, or similar professional licensed by the State of California and maintained in the operating record of the operation. The operator shall also certify under penalty of perjury, at least annually, that only approved inert debris has been placed as engineered fill, and specifying the amount of inert debris placed as fill. These determinations may be made by reviewing the records of an operation or by on-site inspection. Certification documents shall be maintained in the operating records of the operation and shall be made available to the EA during normal business hours. Acceptance of other Type A inert debris or shredded tires pursuant to Waste Discharge Requirements prior to the effective date of this Article does not preclude an activity from being deemed an inert debris engineered fill operation, provided that the operation meets all the requirements of this Article once it takes effect. Where such materials have been deposited, the operator must specify in the operation plan the type of waste previously accepted, a diagram of the fill area, and estimations of the depth of the fill material previously accepted. Inert debris placed in an Inert Debris Engineered Fill Operation is not counted as diversion or disposal for a given jurisdiction.

(m) "Inert Debris Type A Disposal Facility" means a site where only Type A inert debris is disposed to land. Inert debris Type A disposal facilities do not include inert debris engineered fill operations.

(n) "Landslide Debris", for the purposes of this Article, means the soil or rock or other natural material deposited on roadways, bridge decks, flood control facilities, or other structures resulting from a naturally-occurring mass movement of earth or rocks from a mountain, hill, cliff, or road cut.

(o) "Operating Record" means a readily accessible collection of records of an operation's or facility's activities in compliance with required State Minimum Standards under Title 14 and Title 27. The operating record shall include the operation plan for inert debris engineered fill operations, or the disposal facility plan or disposal facility report for facilities, and shall contain, but is not limited to: agency approvals, tonnage and load checking records, hours of operation, owner/operator contacts, and personnel training history. The record may be reviewed by State and local authorities and shall be made available during normal business hours. The records may be maintained at any location that is easily accessible to the EA.

(p) "Putrescible Wastes" means solid wastes that are capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances because of odors, vectors, gases or other offensive conditions, and include materials such as, but not limited to food wastes, offal and dead animals. The EA shall determine on a case-by-case basis whether or not a site is handling putrescible wastes.

(q) "RDSI" means Report of Disposal Site Information as described in CCR, Title 27, section 21600.

(r) "RWQCB" means Regional Water Quality Control Board.

(s) "Separated for Reuse" means materials, including commingled recyclables, that have been separated or kept separate from the solid waste stream for the purpose of additional sorting or processing of those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace, and includes materials that have been "source separated".

(t) "Site" means the area where the handling of solid waste, and/or recyclable materials occurs at an operation or facility subject to this Article.

(u) "Solid waste" means the same as in PRC section 40191.

(v) "Source Separated" means materials, including commingled recyclables, that have been separated or kept separate from the solid waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

(w) "Vector" means any insect or other arthropod, rodent, or other animal capable of transmitting the causative agents of human disease.

NOTE: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2003 (Register 2003, No. 52).

§ 17388.1. Regulatory Tiers Placement for CDI Waste and Inert Debris Disposal Operations and Facilities.

Construction & Demolition and Inert Debris Tier Placement

Excluded Operations Tier Section 17388.2	EA Notification Registration	Full Solid Waste Facility Permit	
• Inert Debris Engineered Fill activity which concludes within one year	• Inert Debris Engineered Fill Operations Section 17388.3	• Inert Debris Type A Disposal Facility Section 17388.4	• CDI Waste Disposal Facility Section 17388.5
• Removal and disposal of landslide debris			D I S P O S A L
• Removal and disposal of sediment accumulated within irrigation or flood control facilities			
• Road building, road repair, etc.			
• Clean closed CDI waste disposal facilities			

NOTE: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2003 (Register 2003, No. 52).

§ 17388.2. Excluded Activities.

(a) The following disposal activities do not constitute C&D waste or inert debris operations or facilities for the purposes of this Article and are not required to meet the requirements set forth herein:

(1) Any use (e.g., grading) of gravel, rock, soil, sand and similar, whether processed or not, that has never been used in connection with any structure, road, parking lot, or similar use.

(2) Engineered fill activities which have local permits as required, and are carried out in conjunction with a construction project (e.g., building and other construction, bridge and roadway work, development of pathways or riding trails, etc), and which use uncontaminated concrete and/or fully cured asphalt which has been reduced in particle size to 2" or less as part of a recycling activity and concludes within two years from commencement.

(3) Inert debris engineered fill activities which conclude within one year of commencement and that meet all requirements of section 17388.3 of this Article, except subsections (b) inspections, (c) Plan, (d) State Minimum Standards, (g) final cover, (h) scales and submittal of EA Notification.

(4) Removal and disposal of landslide debris containing no C&D waste by Federal, State and local government public works agencies and their contractors, provided that the material removed from such sites is disposed in accordance with applicable law.

(5) Removal and disposal of sediment which has accumulated within irrigation or flood control facilities and which contains no solid waste, by Federal, State and local government public works agencies and their contractors, provided that the material removed from such sites is disposed or otherwise handled in accordance with applicable law.

(6) The use of fully cured asphalt, uncontaminated concrete (including steel reinforcing rods embedded in the concrete), crushed glass, brick, ce-

ramics, clay and clay products, which may be mixed with rock and soil, in connection with road building, road repair, airport runway construction, bridge and roadway work, levee work, flood control work, and all associated activities by Federal, State and local government public works agencies and their contractors.

(7) Existing C&D waste or inert debris disposal sites from which all waste and debris have been removed (clean closure) within one year after February 24, 2004, provided that the material removed from such sites is disposed in accordance with applicable law. The board may extend the time for clean closure by up to one year upon the applicant's showing of good cause for such extension.

(b) Nothing in this section precludes the EA or the board from inspecting an excluded activity to verify that the activity is being conducted in a manner that qualifies as an excluded activity, or from taking any appropriate enforcement action, including the use of a Notice and Order. The burden of proof shall be on the owner or operator to demonstrate that the activity is excluded pursuant to this section.

NOTE: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2003 (Register 2003, No. 52).

§ 17388.3. Inert Debris Engineered Fill Operations.

Inert debris engineered fill operations shall submit EA Notifications, as set forth in CCR, Title 14, section 18100 et seq. and shall comply with all applicable RWQCB waste discharge requirements.

(a) Each operator of an inert debris engineered fill operation shall submit a copy of its waste discharge requirements or a letter of exemption from the applicable RWQCB to the EA together with its notification of intent to operate.

(b) Inert debris engineered fill operations shall be inspected as necessary by the EA to verify compliance with State Minimum Standards. Inspections shall be conducted quarterly, unless the EA determines a lesser frequency is sufficient, but in no case shall the inspection frequency be less than annual. To the greatest extent possible, all inspections shall be unannounced and shall be conducted at irregular intervals.

(c) Each operator of an inert debris engineered fill operation shall file an "Operation Plan" (as specified in this Article, section 17390) with the EA together with its notification of intent to operate. The information contained in the Plan shall be reviewed by the EA to determine whether it is complete and correct as defined in CCR, Title 14, section 18101.

(d) All inert debris engineered fill operations shall comply with the State Minimum Standards set forth in Title 27 CCR, Division 2, Chapter 3.0, Subchapter 4, Article 1 (Operating Criteria), and Article 3 (Handling, Equipment and Maintenance), and Article 4 (Controls) (except sections 20515, 20640, 20880, and 20890).

(e) By March 1 of each year, the operator shall report to the EA and the board the total amount of inert debris deposited during the previous year. However, the operator is not subject to the disposal reporting record requirements of Title 14 CCR, Division 7, Chapter 9, Article 9.2 or the disposal fee specified in PRC Section 48000 and Revenue and Taxation Code Section 45151.

(f) All inert debris engineered fill operations, upon completion or cessation of fill activities for more than one year and upon any transfer of any part of the land subject to the operation prior to completion of fill activities, shall comply with the requirements in Title 27, Subsections 21170(a)(1,2 and, if applicable, 3).

(g) Upon the final placement of waste at the site, the operator shall cover the site of fill with three feet of compacted soil above the fill area or with other final cover as determined by the EA. The EA may determine, on the basis of substantial evidence, that a lesser amount of final cover or no final cover is needed, based on potential impacts to the public health, safety and the environment.

(h) If an inert debris engineered fill operation exceeds any combination of the following requirements three (3) or more times within any two (2) year period which the EA determines constitutes a violation of this

Article, the facility no longer qualifies for an EA Notification under this section. Upon the third such violation, the EA shall notify the operator in writing that the facility no longer qualifies for an EA Notification, and the operator must within 30 days apply for a Full Permit as if it were a CDI Waste Disposal Facility pursuant to Section 17388.5. In addition, the EA shall issue a cease and desist order pursuant to Section 18304 directing, among other things, that the operator immediately cease accepting material at the site until the operator has demonstrated to the EA that it has corrected the violation and eliminated the cause of the violation. Notwithstanding, the EA may at any time take any additional enforcement action the EA deems appropriate.

The requirements to which this subdivision applies are:

1. Disposal of any wastes not authorized by subsection 17388(f);
2. Failure to comply with the requirements for certification by an engineer specified in subsection 17388(l);
3. Failure to comply with requirements for operator certification of materials disposed in the fill as required in subsection 17388(f).

(i) Inert debris engineered fill operations are not required to meet the notification requirements of this Article if the operation is occurring at a disposal facility that has a full solid waste facilities permit and the permit authorizes the activity either through a specific condition in the permit or as described and approved in the Report of Disposal Site Information.

NOTE: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2003 (Register 2003, No. 52).

§ 17388.4. Inert Debris Type A Disposal Facilities.

Inert debris Type A disposal facilities shall obtain Registration Permits and shall comply with the Registration Permit requirements as set forth in CCR, Title 14, Division 7, Chapter 5.0, Article 3.0 (commencing at section 18100), with the following requirements set out in CCR, Title 27, Division 2, Chapter 4, Subchapter 3, Article 2 (commencing at section 21570) in the same manner as if they were municipal solid waste landfills, CCR, Title 14, Division 7, Chapter 9, and with all RWQCB waste discharge requirements.

(a) Each operator of an inert debris Type A disposal facility shall submit a copy of its waste discharge requirements or a letter of exemption from the applicable RWQCB to the EA together with its application for a Registration Permit.

(b) Inert debris Type A disposal facilities shall be inspected monthly by the EA in accordance with PRC 43218. To the greatest extent possible, all inspections shall be unannounced and shall be conducted at irregular intervals.

(c) Each operator shall file with the EA, together with its application for a solid waste facilities permit, a Disposal Facility Plan (as more fully described in Chapter 5, Article 3.2, section 18223.6).

(d) Each operator must comply with the closure and postclosure maintenance requirements of Title 27, CCR, Division 2, Subchapter 5, Article 2 (commencing with section 21099).

(e) Each operator must comply with the financial assurance requirements for closure and postclosure maintenance, operating liability and corrective action set forth in Title 27 CCR, Division 2, Chapter 6 (commencing at section 22200).

(f) The EA shall comply with the Enforcement Agency Requirements of Title 27 CCR, Division 2, Chapter 4, Subchapter 3, Article 3, commencing with section 21650.

(g) Inert debris Type A disposal facilities shall maintain disposal reporting records and comply with the requirements set forth in Title 14 CCR, Division 7, Chapter 9, Article 9.2 (Disposal Reporting System), commencing at section 18800.

(h) Inert debris Type A disposal facilities shall comply with the State Minimum Standards set forth in Title 27 CCR, Division 2, Chapter 3.0, Subchapter 4, Articles 1 (Operating Criteria), Article 3 (Handling,

Equipment and Maintenance), and Article 4 (Controls) (except sections 20880 and 20890).

(i) Each operator shall determine the weight of all material received at the facility for disposal and shall maintain records of the weight of materials as required herein. Until February 24, 2005, weight of material shall be determined by a conversion factor authorized by the EA for each waste type received. After that date, weight shall be determined by the use of scales, which may be located at the operation or off-site. Notwithstanding, operations in a rural city or a rural county, as defined in PRC sections 40183 and 40184, and operations that will cease activities within three years from February 24, 2004, as reflected in their Operation Plan may determine the weight of materials received by use of conversion factors authorized by the EA for each waste type or combination thereof received. Evidence of the accuracy of the conversion factors shall be provided to the EA annually.

(j) If an inert debris Type A disposal facility accepts for disposal any waste not authorized by, or pursuant to, Subsection 17388(k)(1) three (3) or more times within any two (2) year period which the EA determines constitutes a violation of this Article, the facility no longer qualifies for a Registration Permit under this section. Upon the third such violation, the EA shall notify the operator in writing that the facility no longer qualifies for a Registration Permit, and the operator must within 30 days apply for a Full Permit as if it were a CDI Waste Disposal Facility pursuant to Section 17388.5. In addition, the EA shall issue a cease and desist order pursuant to Section 18304 directing, among other things, that the operator immediately cease accepting material at the site until the operator has demonstrated to the EA that it has corrected the violation and eliminated the cause of the violation. Notwithstanding, the EA may at any time take any additional enforcement action the EA deems appropriate.

NOTE: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2003 (Register 2003, No. 52).

§ 17388.5. CDI Waste Disposal Facilities.

CDI waste disposal facilities shall obtain full solid waste facilities permits and shall comply with all requirements promulgated by the board as set forth in CCR, Title 27, Division 2 in the same manner as if they were municipal solid waste landfill units.

(a) CDI waste disposal facilities shall maintain disposal reporting records and shall comply with the requirements set forth in Title 14 CCR, Division 7, Chapter 9, Article 9.2 (Disposal Reporting System), commencing at section 18800.

(b) Each operator shall determine the weight of all material received at the facility for disposal and shall maintain records of the weight of materials as required herein. Until February 24, 2005, weight of material shall be determined by a conversion factor authorized by the EA for each waste type received. After that date, weight shall be determined by the use of scales, which may be located at the operation or off-site. Notwithstanding, operations in a rural city or a rural county, as defined in PRC sections 40183 and 40184, and operations that will cease activities within three years from February 24, 2004, as reflected in their Operation Plan may determine the weight of materials received by use of conversion factors authorized by the EA for each waste type or combination thereof received. Evidence of the accuracy of the conversion factors shall be provided to the EA annually.

(c) To the greatest extent possible, all site inspections shall be unannounced and shall be conducted at irregular intervals.

NOTE: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2003 (Register 2003, No. 52).

§ 17388.6. Public Hearing.

(a) Provided that a comparable public hearing has not been held within the year preceding the EA's receipt of a complete and correct application,

the EA shall hold an informational public hearing on an application for a Registration Permit or a Full Permit required under this Article. The EA may require the operator(s) of the facility or facilities that are the subject of the hearing to pay all costs incurred by the EA in connection with the hearing. The hearing may be combined with another hearing in which the EA participates that meets the criteria in this section. In the case of an application for a Full Permit, the hearing shall be held before the EA submits the proposed permit to the board for concurrence. In the case of an application for a Registration Permit, the hearing shall be held before the EA issues the permit. The EA shall submit to the board a statement that the hearing required by this section was held, in the case of a Full Permit, at the time the EA submits the proposed permit to the board for concurrence, or, in the case of a Registration Permit, at the time the EA submits a copy of the permit it has issued.

(b) The hearing shall meet the following criteria:

1. Notice of the hearing shall be given pursuant to Government Code Section 65091, subdivisions (a)-(c), inclusive.

2. Notice of the hearing shall also be given to the governing body of the jurisdiction within which the facility is located and to the State Assembly Member and the State Senator in whose districts the facility is located.

3. The hearing shall be held in a suitable location not more than five (5) miles from the facility that is the subject of the hearing; provided that, if no suitable location exists within five (5) miles of the facility, as determined by the EA, the EA may designate an alternative suitable location that is as close to the facility as reasonably practical.

4. The hearing shall be held on a day and at a time that the EA determines will enable attendance by residents living in the vicinity of the facility that is the subject of the hearing.

(c) EAs may undertake additional measures to extend public notice and to encourage attendance by any persons who may be interested in the facility that is the subject of the hearing.

NOTE: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2003 (Register 2003, No. 52).

§ 17389. Record Keeping Requirements for Operations.

All operations shall meet the following requirements:

(a) All records required by this Article shall be maintained in a single accessible location for at least three (3) years and shall be available for inspection by authorized representatives of the board, EA, local health agency, and other duly authorized regulatory and enforcement agencies during normal working hours.

(b) The operator shall maintain a daily log book or file describing special occurrences and methods used to resolve problems arising from these events, including details of all incidents requiring the implementation of emergency procedures. Special occurrences shall include, but are not limited to: receipt or rejection of prohibited wastes, fires, accidents, injury and property damage, flooding, earthquake damage and other unusual occurrences. The operator shall notify the EA by telephone within 24 hours of all incidents requiring the implementation of emergency procedures, unless the EA determines that a less immediate form of notification will be sufficient to protect public health and safety and the environment.

(c) The operator shall document any written and oral complaints received from the public, including the nature of the complaint, the date the complaint was received, the name, address, and telephone number of the person or persons making the complaint (if available), and any actions taken to respond to the complaint.

(d) The operator shall maintain an operating record which shall include, among other things, records of incoming weights or volumes and outgoing salvage or residual weights or volumes shall be kept in a form or manner approved by the EA. Such records shall be adequate for overall planning and control purposes, and be as current and accurate as practicable. These records shall be provided to the EA or the board upon request.

(e) The operator shall record the number of load checks performed and loads rejected.

(f) The operator shall maintain a copy of the written notice to the EA and local health agency specifying the names, addresses, and telephone numbers of the operator or other persons responsible for the operation.

(g) The operator shall maintain records of employee training.

(h) If gas monitoring is conducted at the operation, the operator shall maintain records of all gas monitoring as available and as required.

(i) If water monitoring is conducted at the operation, the operator shall maintain records of all water monitoring as available and appropriate as required.

[Note: Record-keeping requirements for facilities subject to this Article are found at and Title 27, Division 2, Chapter 3, Article 1, section 20510.]

NOTE: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2003 (Register 2003, No. 52).

§ 17390. Operation Plan.

Each operator of an Inert Debris Engineered Fill Operation, together with its notification of intent to operate filed pursuant to section 17388.3 of this Article, shall file with the EA an Operation Plan. The operator must file amendments as necessary to maintain the accuracy of the Plan. A Plan shall contain the following:

(a) Name(s) of the operator, owner, and the company they represent, if applicable;

(b) Scaled schematic drawing of the buildings and other structures showing layout and general dimensions of the operations area, including but not limited to, unloading, storage, loading, and parking areas;

(c) Descriptive statement of the manner in which activities are to be conducted at the operation;

(d) Days and hours of operation. If the hours of waste receipt differ from the hours of material processing, each schedule may be stated. For facilities with continuous operations, indicate the start of the operating day for the purpose of calculating the amount of waste received per operating day. The operator may also indicate whether or not, and when, other activities such as routine maintenance will take place, if those activities will occur at times other than those indicated above;

(e) Total acreage contained within the operating or fill areas;

(f) Design capacity, including the assumptions, methods, and calculations performed to determine the total capacity;

(g) Information indicating the types and daily quantities of waste or debris to be received. If tonnage is determined from records of cubic yardage, include the conversion factor used in the calculation;

(h) Description of methods used by the operation to comply with each State Minimum Standard;

(i) Anticipated volume of quench or process water and the planned method of treatment and disposal of any wastewater;

(j) Description of provisions to handle unusual peak loading;

(k) Description of transfer, recovery and processing equipment, including classification, capacity and the number of units.

(l) Planned method for final placement of the solid waste;

(m) Planned method for the storage and removal of salvaged material.

(n) Resume of management organization that will operate the site.

(o) A description of road building and seasonal tipping pad design.

(p) A description of a program to prevent the acceptance of unapproved materials and hazardous wastes.

(q) A description of the planned method for storage and removal of prohibited wastes.

(r) A general description of the proposed final productive use(s), if any, of the fill area. The description shall specify generally what area(s) within the boundaries of the operation will be capable of supporting a structure upon closure.

(s) The compaction standards for density and design, if any.

(t) A copy of the operator's Injury and Illness Prevention Plan (as applicable under current law).

NOTE: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2003 (Register 2003, No. 52).

Article 6.0. Transfer/Processing Operations and Facilities Regulatory Requirements

§ 17400. Authority and Scope.

(a) Articles 6.0, 6.1, 6.2, 6.3, and 6.35 set forth permitting requirements and minimum operating standards for operations and facilities that receive, store, handle, recover, transfer, or process solid waste which are subject to the requirements of these Articles. The regulatory tier requirements of sections 17403 through 17403.9 are not applicable to operations and facilities that are subject to regulations elsewhere in this Chapter, including but not limited to, Article 5.6 (commencing at section 17360); and in Chapter 3.1 (commencing with section 17850). Activities placed within the excluded tier in other parts of this Division, may still be subject to these regulatory requirements.

(b) These Articles are adopted pursuant to and for the purpose of implementing the California Integrated Waste Management Act of 1989 (Act) commencing with section 40000 of the Public Resources Code, as amended. These regulations should be read together with the Act.

(c) These Articles implement those provisions of the Act relating to receipt, storage, handling, recovery, transfer, or processing of solid waste. Nothing in these Articles limits or restricts the power of any federal, state, or local agency to enforce any provision of law that it is authorized or required to enforce or administer, nor to limit or restrict cities and counties from promulgating laws which are as strict or stricter than the regulations contained in these Articles. However, no city or county may promulgate laws which are inconsistent with the provisions of these Articles.

(d) No provision in these Articles shall be construed as relieving any owner, operator, or designee from obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, or reports, or other requirements of other regulatory or enforcement agencies, including but not limited to, local health agencies, regional water quality control boards, Department of Toxic Substances Control, California Department of Industrial Relations, Division of Occupational Safety and Health, air quality management districts or air pollution control districts, local land use authorities, and fire authorities.

(e) No provision in these Articles is intended to require the owner or operator of an operation to comply with the Enforcement Agency Notification requirements, or the owner or operator of a facility to obtain a tiered permit in accordance with Title 27, Division 2, Subdivision 1, Chapter 4, Subchapter 3, Articles 2.0, 3.0 and 3.1 of the California Code of Regulations (commencing with section 21570) et seq. and Title 14, Division 7, Chapter 5.0, Article 3.0, (commencing with section 18100); if that owner or operator already has a valid full solid waste facility permit and, that permit authorizes the transfer/processing operation or facility.

(f) Notwithstanding subsection (a) of this section, if a Chipping and Grinding Operation or Facility, as defined in section 17852(k) of this Division, handles material that fails to meet the definition of green material due to contamination as set forth in section 17852(u) of this Division, the operation or facility:

(1) shall be subject to these regulatory requirements.

(2) shall not be considered to be a recycling center as set forth in subsections (c) or (d) of section 17402.5, and

(3) shall not qualify as an excluded operation as set forth in section 17403.1.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 43020 and 43021, Public Resources Code.

HISTORY

1. Renumbering of old article 6 heading to new article 6.4, new article 6.0 (sections 17400-17405.0) and section filed 10-11-96; operative 10-11-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 41).
2. Amendment of article heading, section and NOTE filed 3-5-99; operative 3-5-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 11).
3. Amendment of subsection (a) filed 8-13-2001 as an emergency; operative 2-11-2002 (Register 2001, No. 33). A Certificate of Compliance must be transmitted to OAL by 7-11-2002 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) refiled 6-13-2002 as an emergency; operative 6-13-2002 (Register 2002, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-11-2002 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6-13-2002 order, including further amendment of subsection (a) and new subsections (f)-(j)(3), transmitted to OAL 8-22-2002 and filed 9-30-2002 (Register 2002, No. 40).

§ 17401. Applicability of Standards.

HISTORY

1. Repealer filed 10-11-96; operative 10-11-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 41).

§ 17402. Definitions.

(a) For the purposes of these Articles:

(1) "Contact Water" means water that has come in contact with waste and may include leachate.

(2) "Covered Container" means a container that is covered to prevent the migration of litter from the container, excessive infiltration of precipitation, odor and leachate production, and to prevent access by animals and people; thereby controlling litter, scavenging, and illegal dumping of prohibited wastes. Covers may include, but are not limited to, tarpaulins or similar materials.

(3) "Direct Transfer Facility" means a transfer facility that receives equal to or more than 60 cubic yards or 15 tons (whichever is greater) of solid waste per operating day but less than 150 tons of solid waste and meets all of the following requirements:

(A) is located on the premises of a duly licensed solid waste hauling operator;

(B) only handles solid waste that has been placed within covered containers or vehicles prior to entering the facility and that is transported in vehicles owned or leased by that same operator;

(C) the facility does not handle, separate, or otherwise process the solid waste;

(D) no waste is stored at the facility for more than any 8-hour period;

(E) solid waste is transferred only once and directly from one covered container or vehicle to another covered container or vehicle so that the waste is never put on the ground or outside the confines of a container or vehicle, before, during, or after transfer. Direct transfer would not include top loading trailers where the solid waste actually leaves the confines of the collection vehicle and is suspended in air before falling into a transfer vehicle;

(F) all of the contents of the original transferring container or vehicle must be emptied during a single transfer; and

(G) any waste that may unintentionally fall outside of the containers or vehicles, is promptly cleaned up and replaced within the container or vehicle to which it was being transferred.

(4) "DTSC" means Department of Toxic Substances Control.

(5) "EA" means enforcement agency as defined in PRC section 40130.

(6) "Emergency Transfer/Processing Operation" means an operation that is established because there has been a proclamation of a state of emergency or local emergency, as provided in Title 14, Division 7, Chapter 3, Article 3, sections 17210.1 (j) and (k) and which meets all of the following requirements:

(A) the operation handles only disaster debris and other wastes, in accordance with section 17210.1(d), during the disaster debris recovery phase; and

(B) the location does not currently have a solid waste facility permit;

(C) if the operation accepts, processes, or stores hazardous or household hazardous waste, then these activities must be in compliance with

DTSC standards or standards of other appropriate authorities or agencies.

(7) "Hazardous Wastes" means any waste which meets the definitions set forth in Title 22, section 66261.3, et seq. and is required to be managed.

(8) "Large Volume Transfer/Processing Facility" means a facility that receives 100 tons or more of solid waste per operating day for the purpose of storing, handling or processing the waste prior to transferring the waste to another solid waste operation or facility.

(A) In determining the tonnage of solid waste received by the facility, the following materials shall not be included: materials received by a recycling center located within the facility, and by beverage container recycling programs in accordance with Public Resources Code sections 14511.7, 14518, or 14520, if the recycling activities are separated from the solid waste handling activities by a defined physical barrier or where the activities are otherwise separated in a manner approved by the EA.

(B) If the facility does not weigh the solid waste received, then the tonnage shall be determined by using a volumetric conversion factor where one cubic yard is equal to 500 pounds. The EA shall approve an alternate conversion factor if the operator demonstrates that it is more accurate than the required conversion factor.

(9) "Limited Volume Transfer Operation" means an operation that receives less than 60 cubic yards, or 15 tons of solid waste per operating day for the purpose of storing the waste prior to transferring the waste to another solid waste operation or facility and which does not conduct processing activities, but may conduct limited salvaging activities and volume reduction by the operator.

(A) In determining the tonnage of solid waste received by the operation, the following materials shall not be included: materials received by a recycling center located within the operation, and by beverage container recycling programs in accordance with Public Resources Code sections 14511.7, 14518, or 14520, if the recycling activities are separated from the solid waste handling activities by a defined physical barrier or where the activities are otherwise separated in a manner approved by the EA.

(B) If the operation does not weigh the solid waste received, then the tonnage shall be determined by using a volumetric conversion factor where one cubic yard is equal to 500 pounds. The EA shall approve an alternate conversion factor if the operator demonstrates that it is more accurate than the required conversion factor.

(10) "Litter" means all solid waste which has been improperly discarded or which has migrated by wind or equipment away from the operations area. Litter includes, but is not limited to, convenience food, beverage, and other product packages or containers constructed of steel, aluminum, glass, paper, plastic, and other natural and synthetic materials, thrown or deposited on the lands and waters of the state.

(11) "Medium Volume Transfer/Processing Facility" means a facility that receives equal to or more than 60 cubic yards or 15 tons (whichever is greater) of solid waste per operating day but less than 100 tons of solid waste, for the purpose of storing or handling the waste prior to transferring the waste to another solid waste operation or facility; or a facility that receives any amount of solid waste, up to 100 tons per operating day, for the purpose of processing solid waste prior to transferring the waste to another solid waste operation or facility.

(A) In determining the tonnage of solid waste received by the facility, the following materials shall not be included: materials received by a recycling center located within the facility, and by beverage container recycling programs in accordance with Public Resources Code sections 14511.7, 14518, or 14520, if the recycling activities are separated from the solid waste handling activities by a defined physical barrier or where the activities are otherwise separated in a manner approved by the EA.

(B) If the facility does not weigh the solid waste received, then the tonnage shall be determined by using a volumetric conversion factor where one cubic yard is equal to 500 pounds. The EA shall approve an alternate conversion factor if the operator demonstrates that it is more accurate than the required conversion factor.

(12) "Nuisance" includes anything which:

EXHIBIT "E"

California Integrated Waste Management Board

Rosario Marin, Chair

1001 I Street • Sacramento, California 95814 • (916) 341-6000

Mailing Address: P. O. Box 4025, Sacramento, CA 95812-4025

www.ciwmb.ca.gov

Terry Jamminen
Sec. for
Environmental
Protection



Arnold Schwarzenegger
Governor

November 29, 2004

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. James Filbin, Owner
Jim Filbin Aggregates
4398 Santa Fe Road
San Luis Obispo, CA 93401

SUBJECT: Jim Filbin Aggregates, Assessor Parcel Number 076-371-012, San Luis Obispo County

Dear Mr. Filbin:

Per your request during a phone conversation with Susan Markie, Supervisor of the California Integrated Waste Management Board (CIWMB) Enforcement Agency Section on November 15, 2004, attached are copies from the California Environmental Protection Agency website outlining the history of the CIWMB. As indicated in your conversation with Susan, you received a letter from the CIWMB, dated September 29, 2004. That letter stated that the CIWMB, acting as the Enforcement Agency for San Luis Obispo County, attempted to conduct a site visit of the above-described property that you own on September 21, 2004. The purpose of CIWMB staff's site visit was twofold:

1. Investigate the large stockpiles of concrete and asphalt on the property that are visible from Santa Fe Road in San Luis Obispo in order to evaluate if the solid waste handling activity is subject to the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements, Construction and Demolition and Inert Debris Disposal Regulatory Requirements, or other laws or regulations administered by the CIWMB; and
2. Provide and discuss with the owner/operator of the site the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements and Construction and Demolition and Inert Debris Disposal Regulatory Requirements contained in Title 14 of the California Code of Regulations (CCR), Chapter 3, Article 5.9 and Article 5.95, commencing at Section 17380 and Section 17387, respectively.

An inspection of the site is necessary to determine whether the activity is subject to regulation, and, if so, what level of regulation applies. The CIWMB as the Enforcement Agency is authorized by statute to inspect your property, pursuant to Public Resources Code Sections 44100 and 44101. If you do not consent to the inspection, the CIWMB will seek an inspection warrant pursuant to Code of Civil Procedure Sections 1822.50, et seq.

California Environmental Protection Agency

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Jim Filbin Aggregates

November 29, 2004

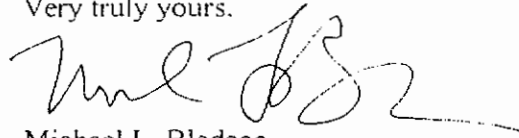
Page 2 of 2

Contact Susan Markie at (916) 341-6324 no later than December 13, 2004, to arrange for CIWMB staff to inspect your property to determine the permitting requirements and minimum operating standards for the receipt, storage, handling, transfer, or processing of construction and demolition debris that is currently taking place on your property. If you have not talked with Ms. Markie by that date and arranged for an inspection of your property, we will refer this matter to the Attorney General and will obtain an inspection warrant that will authorize CIWMB staff to conduct the inspection without your consent.

As the solid waste enforcement agency, the CIWMB is authorized to charge the owner/operator of a solid waste facility or a solid waste enterprise for its services when performing the duties of the solid waste enforcement agency. The current billing rate is \$102.49 per hour. As a result, all costs incurred while inspecting, reviewing pertinent documentation, and preparing correspondence will be billed to the owner/operator of the solid waste facility or solid waste enterprise.

If you have any questions or comments regarding this matter, please contact me at (916) 341-6058 or Susan Markie at (916) 341-6324.

Very truly yours,



Michael L. Bledsoe
Senior Staff Counsel

Enclosures

cc: San Luis Obispo County Planning and Building Department
Mark Leary, Executive Director
Marie Carter, Chief Counsel

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Integrated Waste Management Board

California's first significant regulation of solid waste disposal began with enactment of the Solid Waste Management and Resource Recovery Act of 1972 (Chapter 342, Statutes of 1972). This statute created the Solid Waste Management Board, giving it broad authority related to solid waste handling, disposal and reclamation. Principle responsibilities of the new agency were the creation of state solid waste management and resource recovery policy, development of minimum standards for solid waste handling and disposal, and approval of county solid waste management plans. Each of the state's 58 counties was given the responsibility of developing and submitting to the Board by January 1, 1976 a long-term solid waste management and resource recovery plan, subject to the approval of its incorporated cities.

In 1976, the Legislature created a permitting and enforcement program for solid waste facilities built around the concept of local enforcement agencies (Chapter 1309, Statutes of 1976). This fundamental element of the state's solid waste permitting and enforcement program remains intact today.

Early development of California's curbside recycling infrastructure was encouraged under a Waste Board grant program established by the Litter Control, Recycling and Resource Conservation Act (Chapter 1161, Statutes of 1977). Through grants to local government, nonprofits and private companies, the Board facilitated development of new curbside recycling technology and California became a national leader as these techniques became the standard for communities across the country. Local investigations of resource recovery (waste-to-energy) facilities were also supported through this program. In the early 1980s as many as 42 energy recovery plants were in the planning stages, although nearly all succumbed to environmental pressures. Only three were eventually built in Long Beach, Commerce and Stanislaus County.

Long-term maintenance of waste disposal sites became a concern in the mid-1980s and in 1987 the Legislature enacted the Solid Waste Disposal and Site Hazard Reduction Act (Chapter 1319, Statutes of 1987). This law set new landfill requirements for financial assurances during operations and for planning and funding post-closure maintenance activities.

The California Integrated Waste Management Board was created and its authority and responsibilities were shaped by two pieces of legislation (AB 939 and SB 1322) signed into law as the Integrated Waste Management Act of 1989.

The Act established a new approach to managing California's waste stream, the centerpiece of which mandated goals of 25 percent diversion of each city's and county's waste from disposal by 1995, and 50 percent diversion in 2000, along with a process to ensure environmentally safe disposal of waste that could not be diverted.

The Board plays a central role promoting achievement of the waste diversion mandates that must be met by the state's local jurisdictions. It also fosters markets for recovered recyclables a key component of its overall mission. And it enforces the legal provisions designed to protect the environment and the public's health and safety.

The AB 939 (Sher) Legacy Unfolds

California continues to make progress toward the 50 percent diversion mandate. The statewide diversion rate reached 37 percent in 1999, continuing an upward trend that started with a rate of about 10 percent in 1989. The 1999 numbers also demonstrate how aggressively Californians have charted the shift from disposal to diversion: Between 1989 and 1999 a period of tremendous economic growth statewide waste generation increased by 3.8 million tons, or 7 percent of total generation. Incredibly, during the same period, statewide disposal increased by only 100,000 tons. With searing clarity, this demonstrates that the programs and the infrastructure are working: Of the nearly 4 million additional tons of waste generation, 97 percent was diverted and source reduced.

AB 939, by Assembly Member (now Senator) Byron Sher, also set the stage for a series of reforms affecting waste management at the State and local levels, which resulted in the creation of a statewide collection infrastructure and a cultural shift that has elevated conservation of resources over the convenience of disposal. Sher has continued to be active with legislation to protect the environment, but AB 939 is an example of how a single law can produce a sea change in public behavior.

The Act, along with Title 14 and Chapter 15 of California's environmental regulations, also provided the foundation to put the state on course to comply with federal standards (Subtitle D) for managing solid waste, including the design, construction and operation of landfills. In 1993, California became one of the first states to receive federal approval to assume authority over its solid waste activities, having actually exceeded the federal standards through the adoption of more stringent State regulations. Since then the environmental performance of waste handling facilities in California have steadily improved and today rank the state as a world leader.

In the AB 939 era, the sight of fully packed garbage trucks delivering waste to local landfills (including some landfills made obsolete by new standards) has been sup-planting by a network of material recovery, recycling and transfer station facilities, and state-of-the-art landfills. This network is recovering recyclables from hundreds of daily deliveries, and consolidating the residual solid waste into trailers for more efficient and less environmentally problematic transportation to regional landfills that are dozens to hundreds of miles away.

A Consensus For Change

When AB 939 became law, California was diverting only about 10 percent of the more than 40 million tons of waste generated in the state. Per capita waste disposal was more than twice the national rate. And much of this waste was being disposed of in aged, unlined landfills with the potential for leaking into valuable groundwater aquifers.

In one massive stroke, the Act delivered a plan to correct the course. It was forged from consensus, reflecting input from the full range of public and private sector stakeholders. It was passed by a Legislature controlled by one party and signed into law by a governor of another party. It was accepted by competing private sector interests, and embraced as a thoughtful approach to a daunting challenge.

...the new board...would be required to encourage planning that reduces, recycles and reuses garbage to the maximum extent possible...the Sher approach (AB 939) makes the most sense because it seeks to bring some regulatory order to the garbage men.

-Editorial,
Sacramento Bee, May 11, 1989

A decade later, California demonstrates that tremendous progress has been made in response to the Act and many of its achievements are permanent and represent a continuing benefit to the state in future years. Yet questions remain unanswered as to how the State will address the 50 percent requirements beyond 2000 and 2006.

Achievement in Response to the Act

Waste Diversion

Since 1990 Californians have diverted nearly 140 million tons of solid waste from landfills - enough to fill a line of garbage trucks that would circle the earth more than four times. California's rate of waste diversion has more than tripled since the time AB 939 was enacted.

In just 10 years, local governments have quantified and characterized their waste and identified, selected and voted on programs designed to achieve the mandates. In concert with the range of stakeholders and private industry, an infrastructure was and is being designed, specified, funded, built, equipped, blessed by governing bodies, and operated. Today, California has a broad-based infrastructure in place and growing that will accommodate diversion of at least half the state's entire waste stream.

California's progress is sternly tested by a number of factors:

- California's soaring economy, which greatly increases waste generation

- The fact that many waste reduction programs being implemented by local jurisdictions still have not reached their full potential; others are coming on line and hold great promise.
- While California's marketplace may set the standard for accepting post consumer materials into the mix, segments of the economy remain untapped, and some are subject to fluctuating, and often meager, secondary materials markets.

The latter has presented a particularly difficult challenge for the Board as it devised strategies designed to stimulate markets and promote entrepreneurial activity without intruding into a marketplace that belongs to business and consumers.

Legislation has been signed affording local jurisdictions time extensions to meet the mandate. Senate Bill 1066 (Sher), in particular, enables the Board to grant extensions of up to five years beyond 2000 to jurisdictions that are struggling to meet the mandate but have in place a plan to comply with the law within the period of the extension.

With regard to the landfill capacity crisis, California's leadership in recycling is not, and never has been, exclusively a product of landfill capacity. While capacity may not be the clarion call it once was nationally, California remains a place where new landfill proposals are subject to an intense review often several years in length. More important, however, is the fact that the Act responded to the dire need for an integrated approach to waste management. This approach, which is enabling California to more sensibly handle its waste and conserve resources, is embodied in a new infrastructure, which will benefit the state for generations to come.

The Infrastructure

The state's new waste management infrastructure is the crown jewel in California's quiet revolution in waste management. Put into place by private industry and local government over the last decade, it represents an investment of hundreds of millions of dollars. As an infrastructure now ensconced in every region of the state, its benefits to California will be delivered not just over the short term, but well into the future.

Where once only landfills stood, scattered across California today are technologically and environmentally sound facilities adeptly designed to divert waste for reuse. Material recovery facilities, transfer stations, composting operations, and other facilities are an integral part of California's waste handling activities.

Other important elements of the infrastructure include waste reduction and recycling programs created by local jurisdictions, and partnerships of public and private sector interests working to break down barriers and expand material recovery opportunities for local governments and private businesses.

One of the ongoing benefits of these resilient partnerships is the growing acceptance among private enterprise that waste reduction and recycling activities are good for the bottom line as well as the environment. Programs integrated into business operations large and small are reaping millions of dollars in annual savings through reuse and avoided disposal costs.

Public Commitment

Californians, for their part, have embraced this effort that, above most other environmental protection programs, allows everyone the chance to participate - to make a difference by reducing, reusing, recycling, and buying products made with recovered materials. Today, an estimated 28 million Californians have access to curbside recycling, and, since passage of the Act, residential yard waste collection has expanded by an astounding 450 percent.

While recycling and waste reduction have become common household practices, many people are taking action outside the home as well. For instance, eliminating excessive packaging for many items, including compact discs and fast food meals, was the direct result of consumer demand. Interestingly, the intensity of this consumer awareness is partly driven by the recycling message that children bring home from school.

Public Health and Safety

The Board's efforts over the last decade have substantially improved public health and safety as it relates to the siting and operation of waste handling facilities including landfills:

- The Board certified 56 local enforcement agencies that ensure operating standards are adhered to at the local level.

- The Board revised and brought up to date more than 300 permits to reflect new performance standards.
- The number of long-term violators has been reduced from 48 to 18.
- Nearly 90 closed, illegal, or abandoned waste sites have been, or are in the process of being cleaned up. The Board, through the State-funded tire pile cleanup program, has removed more than 10 million tires from 30 sites around the state.

The Board has also been innovative in its efforts to build a solid regulatory framework. In 1994, the Board established a tiered permitting structure to ensure that waste facilities are regulated at a level reflecting the environmental risks associated with their particular operations. This tiered approach - lauded by industry, local government, and environmental interests - is one of several reforms undertaken by the Board to simplify, streamline, and otherwise improve regulatory efficiency.

Toward Full Implementation of the Act

Priority Areas

In 1997 the Board, through collaboration with affected parties, identified four key elements to achieving 50 percent diversion of waste: greater recycling and reuse of organic materials and construction and demolition waste, which collectively account for nearly half of the state's waste stream; improving facility compliance; and assistance to local jurisdictions accountable for meeting the mandate. While considerable progress has been realized in all areas, more work remains to be done, and several obstacles must be overcome before 50 percent is achieved.

Market Development

Expanding markets for recovered recyclables is absolutely essential to making further progress in the state's waste diversion efforts. Central to this is solidifying a "buy recycled" ethic, especially in the commercial sector. To date, the Board has aggressively assumed an advocacy role in support of market development, implementing key initiatives outlined in its 1993 and 1996 market development plans. As a result of these plans and the market development aspects of SB 1066, the Board sought and received additional funds to bolster its efforts.

The Board's Recycling Market Development Zone program is the first of its kind in the nation. These enterprise zones for recycling-based manufacturing activity today number 40 around the state. Startup and expanding recycling businesses located in the zones are eligible for technical and financial assistance, including low-interest loans and tax credits.

Through this program, more than 4,000 new jobs have been created, and each year more than 7.6 million tons of waste is being diverted.

The Board's statutory enforcement role also fosters the expansion of markets. In the area of plastics, for instance, the Board is responsible for ensuring minimum recycling rates for a wide range of plastic packaging material. Through oversight, technical assistance, and (when necessary) compliance agreements with product manufacturers, the Board spurs expanded recycling and use of recycled plastics in the marketplace.

All these efforts will be pivotal in the commercial sector, which generates more than half of the state's waste. While many businesses have embraced the benefits of waste reduction and recycling, most have yet to capitalize upon historically untapped resources in recovered recyclables. Since businesses are not subject to the mandates of the acts, the state's challenge will continue to be helping private companies identify prudent, productive voluntary programs, while encouraging cooperative efforts between private enterprise and local jurisdictions.

Public Outreach and Environmental Education

As required by law, a public education and outreach component exists for virtually every Board program. The Board's efforts provide an opportunity to improve education and make school operations more resource efficient, through a variety of initiatives, including the Closing the Loop curriculum, which facilitates partnerships among environmental organizations and provides grant funding for school waste reduction programs.

State Agency Responsibility

State agencies are also required by law to establish recycling programs and buy recycled-content products. The Board promotes and monitors progress by each State agency through its Project Recycle program and the State Agency Buy Recycled Campaign.

State agencies should be an example for others and a force around California in the area of recycling and resource conservation.

Some progress has been made. Under Project Recycle, the number of State facility recycling programs has increased from 150 in 1991 to more than 1,800 today; the amount of material recycled during this period has expanded from only 2,000 tons a year to more than 63,000 tons a year. Nevertheless, the overall level of performance trails far behind the percentages of local jurisdictions striving to meet the requirements of the Act.

To address this need, 1999 legislation established State agency diversion mandates of 25 percent in 2002 and 50 percent in 2004, requiring each agency to also adopt an integrated plan to achieve the mandates. The Board is now assisting agencies in developing their plans.

The Board is also the driving force behind the State's Green Building Task Force whose goal is to institutionalize sustainable building practices as part of State construction projects in an efficient, practical and cost-effective manner.

Tires

California generates approximately 30 million tires every year. It is generally accepted that using products made from used tires is the ultimate solution to the waste tire problem.

Since 1990-91, market development expenditures related to used tires has totaled \$13.95 million. Areas of special emphasis include use of rubberized asphalt concrete and playground mats. To promote greater acceptance and use of rubberized asphalt concrete by local governments, the Board has allocated more than \$1.5 million to establish two technology centers located in Los Angeles and Sacramento.

The Board has also facilitated secondary uses for waste tires through its waste tire stabilization and abatement program. Of the 10 million tires removed from illegal and abandoned sites around the state since 1995, 84 percent went to productive end uses, including use as alternate daily cover, in waste-to-energy facilities, and in civil engineering applications. The remainder went to legal disposal.

Set to expire on January 1, 2001, the Board's tire program was reauthorized and strengthened by new legislation signed into law in September 2000.

Used Oil

The Board's used oil and household hazardous waste program develops and promotes alternatives to the illegal disposal of household hazardous waste. Created to promote proper handling, safe disposal and recycling, the programs are providing added benefit to the state's efforts to reduce storm water pollution as a consequence of public awareness messages that warn about dumping in storm drains.

Progress and Promise

While a number of issues and action items demanded by the drive toward 50 percent diversion remain, California's response to the Integrated Waste Management Act has been a success and underscores considerably more than numerical progress. It reflects a sea change in attitude and action. With an imposing infrastructure in place, programs coming on line and maturing, and millions of Californians committed to making a difference at home and as consumers, California's campaign to more sensibly handle its waste is well positioned to achieve greater success.

Table of Contents

Last updated: November 13, 2003

California Environmental Protection Agency <http://www.calepa.ca.gov/>
General Contact: cepacomm@calepa.ca.gov
Technical Contact: webmaster@calepa.ca.gov
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EXHIBIT "F"

California Integrated Waste Management Board



Alan C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

Rosario Marin, Chair
1001 I Street • Sacramento, California 95814 • (916) 341-6000
Mailing Address: P. O. Box 4025, Sacramento, CA 95812-4025
www.ciwmb.ca.gov

Arnold Schwarzenegger
Governor

January 27, 2005

VIA FACSIMILE

Mr. James Filbin, Owner
Jim Filbin Aggregates
4398 Santa Fe Road
San Luis Obispo, CA 93401

SUBJECT: Jim Filbin Aggregates, Assessor Parcel Number 076-371-012, San Luis Obispo County

Dear Mr. Filbin:

As we discussed in our telephone conversation on January 25, 2005, enclosed please find copies of two letters we sent you in recent months (dated September 29, 2004 and November 29, 2004), together with a reprinted version of the excerpt from the Cal/EPA web page discussing the history of CIWMB.

From our January 25 conversation, it is my understanding that you do not consent now, and do not intend to consent in the future, to an inspection of your property for the purposes described in the enclosed correspondence. Accordingly, we will proceed to obtain an inspection warrant pursuant to the procedures set out in Code of Civil Procedure Sections 1822.50, et seq. Our authority to inspect your property and to obtain such a warrant is found in Public Resources Code Sections 44100 and 44101. Should you change your mind and consent to the inspection, the following dates would be acceptable to us, upon adequate notice: February 15, 16, 17, 18, 23, 24, 25 and 28.

If you have any questions regarding this matter, or wish to schedule the inspection on one of the available dates, please contact me at (916) 341-6058. If you engage an attorney to represent you in this matter, I would be pleased to discuss this matter with him or her.

Very truly yours,

Michael L. Bledsoe
Senior Staff Counsel

Enclosures

cc: Mark Leary, Executive Director
Marie Carter, Chief Counsel
✓ Sue Markie, Supervisor, Enforcement Assistance Branch

FEB - 1 2005

California Environmental Protection Agency

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JH/SM



California Integrated Waste Management Board



Terry Tamminen
Secretary for
Environmental
Protection

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Mailing Address: P. O. Box 4025, Sacramento, CA 95812-4025
www.ciwmb.ca.gov

Arnold Schwarzenegger
Governor

September 29, 2004

CERTIFIED MAIL – 7002 3150 0005 2347 1389

Mr. James Filbin, Owner
Jim Filbin Aggregates
4398 Santa Fe Road
San Luis Obispo, CA 93401

SUBJECT: Jim Filbin Aggregates, Assessor Parcel Number 076-371-012, San Luis Obispo County

Dear Mr. Filbin:

On September 21, 2004, Jeff Hackett of the California Integrated Waste Management Board (CIWMB), acting as the Enforcement Agency for San Luis Obispo County, attempted to conduct a site visit of the above-described property that you own. The purpose of CIWMB staff's site visit was twofold:

1. Investigate the large stockpiles of concrete and asphalt on the property that are visible from Santa Fe Road in San Luis Obispo in order to evaluate if the solid waste handling activity is subject to the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements, Construction and Demolition and Inert Debris Disposal Regulatory Requirements, or other laws or regulations administered by the CIWMB; and
2. Provide and discuss with the owner/operator of the site the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements and Construction and Demolition and Inert Debris Disposal Regulatory Requirements contained in Title 14 of the California Code of Regulations (CCR), Chapter 3, Article 5.9 and Article 5.95, commencing at Section 17380 and Section 17387, respectively.

At the time of the September 21, 2004 site visit, Mr. Hackett met with an occupant of the property who would not provide his name. The person refused to allow Mr. Hackett to inspect the property. After a brief discussion of the regulations, Mr. Hackett gave the occupant a copy of 14 CCR, Chapter 3, Article 5.9. Enclosed with this letter are copies of both Articles 5.9 and 5.95.

Based on Mr. Hackett's initial observations, it appears that the activities at the site may be subject to regulation as either a transfer/processing activity or a disposal activity and may, therefore, be required to obtain a solid waste facilities permit or to comply with the CIWMB's enforcement agency notification procedures. It is possible, however, that the activity at the site is exempt from the CIWMB's regulations. An inspection of the site is necessary to determine whether the activity is subject to regulation, and, if so, what level of regulation applies.

California Environmental Protection Agency

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The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web site at <http://www.ciwmb.ca.gov>

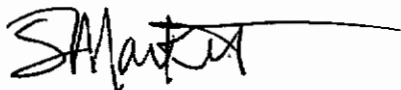
It is hereby requested that you contact Mr. Hackett at (916) 341-6413 no later than October 15, 2004, to arrange for CIWMB staff to inspect your property to determine the permitting requirements and minimum operating standards for the receipt, storage, handling, transfer, or processing of construction and demolition debris that is currently taking place on your property. The CIWMB as the Enforcement Agency is authorized by statute to inspect your property, pursuant to Public Resources Code Sections 44100 and 44101. If you do not consent to the inspection, the CIWMB will seek an inspection warrant pursuant to Code of Civil Procedure Sections 1822.50, et seq.

As the solid waste enforcement agency, the CIWMB is authorized to charge the owner/operator of a solid waste facility or a solid waste enterprise for its services when performing the duties of the solid waste enforcement agency. The current billing rate is \$105.15 per hour. As a result, all costs incurred while inspecting, reviewing pertinent documentation, and preparing correspondence will be billed to the owner/operator of the solid waste facility or solid waste enterprise.

CIWMB staff looks forward to your cooperation with inspecting your property to determine the applicability of the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing and Disposal Regulatory Requirements with regard to the large stockpiles of concrete and asphalt and any other solid waste stored on your property.

If you have any questions or comments regarding this matter, please contact me at (916) 341-6324 or Jeff Hackett of my staff at (916) 341-6413.

Sincerely,



Susan Markie, Supervisor
Enforcement Assistance Section
Facilities Operations Branch
Permitting and Enforcement Division

Enclosure

cc: San Luis Obispo County Planning and Building Department

California Integrated Waste Management Board



Terry Lammiman
Secretary for
Environmental
Protection

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Mailing Address: P. O. Box 4025, Sacramento, CA 95812-4025
www.ciwmb.ca.gov

Arnold Schwarzenegger
Governor

November 29, 2004

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. James Filbin, Owner
Jim Filbin Aggregates
4398 Santa Fe Road
San Luis Obispo, CA 93401

SUBJECT: Jim Filbin Aggregates, Assessor Parcel Number 076-371-012, San Luis Obispo County

Dear Mr. Filbin:

Per your request during a phone conversation with Susan Markie, Supervisor of the California Integrated Waste Management Board (CIWMB) Enforcement Agency Section on November 15, 2004, attached are copies from the California Environmental Protection Agency website outlining the history of the CIWMB. As indicated in your conversation with Susan, you received a letter from the CIWMB, dated September 29, 2004. That letter stated that the CIWMB, acting as the Enforcement Agency for San Luis Obispo County, attempted to conduct a site visit of the above-described property that you own on September 21, 2004. The purpose of CIWMB staff's site visit was twofold:

1. Investigate the large stockpiles of concrete and asphalt on the property that are visible from Santa Fe Road in San Luis Obispo in order to evaluate if the solid waste handling activity is subject to the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements, Construction and Demolition and Inert Debris Disposal Regulatory Requirements, or other laws or regulations administered by the CIWMB; and
2. Provide and discuss with the owner/operator of the site the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements and Construction and Demolition and Inert Debris Disposal Regulatory Requirements contained in Title 14 of the California Code of Regulations (CCR), Chapter 3, Article 5.9 and Article 5.95, commencing at Section 17380 and Section 17387, respectively.

An inspection of the site is necessary to determine whether the activity is subject to regulation, and, if so, what level of regulation applies. The CIWMB as the Enforcement Agency is authorized by statute to inspect your property, pursuant to Public Resources Code Sections 44100 and 44101. If you do not consent to the inspection, the CIWMB will seek an inspection warrant pursuant to Code of Civil Procedure Sections 1822.50, et seq.

California Environmental Protection Agency

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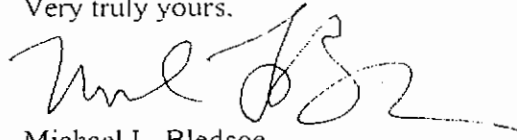
Jim Filbin Aggregates
November 29, 2004
Page 2 of 2

Contact Susan Markie at (916) 341-6324 no later than December 13, 2004, to arrange for CIWMB staff to inspect your property to determine the permitting requirements and minimum operating standards for the receipt, storage, handling, transfer, or processing of construction and demolition debris that is currently taking place on your property. If you have not talked with Ms. Markie by that date and arranged for an inspection of your property, we will refer this matter to the Attorney General and will obtain an inspection warrant that will authorize CIWMB staff to conduct the inspection without your consent.

As the solid waste enforcement agency, the CIWMB is authorized to charge the owner/operator of a solid waste facility or a solid waste enterprise for its services when performing the duties of the solid waste enforcement agency. The current billing rate is \$102.49 per hour. As a result, all costs incurred while inspecting, reviewing pertinent documentation, and preparing correspondence will be billed to the owner/operator of the solid waste facility or solid waste enterprise.

If you have any questions or comments regarding this matter, please contact me at (916) 341-6058 or Susan Markie at (916) 341-6324.

Very truly yours,



Michael L. Bledsoe
Senior Staff Counsel

Enclosures

cc: San Luis Obispo County Planning and Building Department
Mark Leary, Executive Director
Marie Carter, Chief Counsel

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California Environmental Protection Agency

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Integrated Waste Management Board

California's first significant regulation of solid waste disposal began with enactment of the Solid Waste Management and Resource Recovery Act of 1972 (Chapter 342, Statutes of 1972). This statute created the Solid Waste Management Board, giving it broad authority related to solid waste handling, disposal and reclamation. Principle responsibilities of the new agency were the creation of state solid waste management and resource recovery policy, development of minimum standards for solid waste handling and disposal, and approval of county solid waste management plans. Each of the state's 58 counties was given the responsibility of developing and submitting to the Board by January 1, 1976 a long-term solid waste management and resource recovery plan, subject to the approval of its incorporated cities.



In 1976, the Legislature created a permitting and enforcement program for solid waste facilities built around the concept of local enforcement agencies (Chapter 1309, Statutes of 1976). This fundamental element of the state's solid waste permitting and enforcement program remains intact today.

Early development of California's curbside recycling infrastructure was encouraged under a Waste Board grant program established by the Litter Control, Recycling and Resource Conservation Act (Chapter 1161, Statutes of 1977). Through grants to local government, nonprofits and private companies, the Board facilitated development of new curbside recycling technology and California became a national leader as these techniques became the standard for communities across the country. Local investigations of resource recovery (waste-to-energy) facilities were also supported through this program. In the early 1980s as many as 42 energy recovery plants were in the planning stages, although nearly all succumbed to environmental pressures. Only three were eventually built in Long Beach, Commerce and Stanislaus County.

Long-term maintenance of waste disposal sites became a concern in the mid-1980s and in 1987 the Legislature enacted the Solid Waste Disposal and Site Hazard Reduction Act (Chapter 1319, Statutes of 1987). This law set new landfill requirements for financial assurances during operations and for planning and funding post-closure maintenance activities.

The California Integrated Waste Management Board was created and its authority and responsibilities were shaped by two pieces of legislation (AB 939 and SB 1322) signed into law as the Integrated Waste Management Act of 1989.

The Act established a new approach to managing California's waste stream, the centerpiece of which mandated goals of 25 percent diversion of each city's and county's waste from disposal by 1995, and 50 percent diversion in 2000, along with a process to ensure environmentally safe disposal of waste that could not be diverted.

The Board plays a central role promoting achievement of the waste diversion mandates that must be met by the state's local jurisdictions. It also fosters markets for recovered recyclables a key component of its overall mission. And it enforces the legal provisions designed to protect the environment and the public's health and safety.

The AB 939 (Sher) Legacy Unfolds

California continues to make progress toward the 50 percent diversion mandate. The statewide diversion rate reached 37 percent in 1999, continuing an upward trend that started with a rate of about 10 percent in 1989. The 1999 numbers also demonstrate how aggressively Californians have charted the shift from disposal to diversion: Between 1989 and 1999 a period of tremendous economic growth statewide waste generation increased by 3.8 million tons, or 7 percent of total generation. Incredibly, during the same period, statewide disposal increased by only 100,000 tons. With searing clarity, this demonstrates that the programs and the infrastructure are working: Of the nearly 4 million additional tons of waste generation, 97 percent was diverted and source reduced.

AB 939, by Assembly Member (now Senator) Byron Sher, also set the stage for a series of reforms affecting waste management at the State and local levels, which resulted in the creation of a statewide collection infrastructure and a cultural shift that has elevated conservation of resources over the convenience of disposal. Sher has continued to be active with legislation to protect the environment, but AB 939 is an example of how a single law can produce a sea change in public behavior.

The Act, along with Title 14 and Chapter 15 of California's environmental regulations, also provided the foundation to put the state on course to comply with federal standards (Subtitle D) for managing solid waste, including the design, construction and operation of landfills. In 1993, California became one of the first states to receive federal approval to assume authority over its solid waste activities, having actually exceeded the federal standards through the adoption of more stringent State regulations. Since then the environmental performance of waste handling facilities in California have steadily improved and today rank the state as a world leader.

In the AB 939 era, the sight of fully packed garbage trucks delivering waste to local landfills (including some landfills made obsolete by new standards) has been sup-planting by a network of material recovery, recycling and transfer station facilities, and state-of-the-art landfills. This network is recovering recyclables from hundreds of daily deliveries, and consolidating the residual solid waste into trailers for more efficient and less environmentally problematic transportation to regional landfills that are dozens to hundreds of miles away.

A Consensus For Change

When AB 939 became law, California was diverting only about 10 percent of the more than 40 million tons of waste generated in the state. Per capita waste disposal was more than twice the national rate. And much of this waste was being disposed of in aged, unlined landfills with the potential for leaking into valuable groundwater aquifers.

In one massive stroke, the Act delivered a plan to correct the course. It was forged from consensus, reflecting input from the full range of public and private sector stakeholders. It was passed by a Legislature controlled by one party and signed into law by a governor of another party. It was accepted by competing private sector interests, and embraced as a thoughtful approach to a daunting challenge.

...the new board...would be required to encourage planning that reduces, recycles and reuses garbage to the maximum extent possible...the Sher approach (AB 939) makes the most sense because it seeks to bring some regulatory order to the garbage men.

-Editorial,
Sacramento Bee, May 11, 1989

A decade later, California demonstrates that tremendous progress has been made in response to the Act and many of its achievements are permanent and represent a continuing benefit to the state in future years. Yet questions remain unanswered as to how the State will address the 50 percent requirements beyond 2000 and 2006.

Achievement in Response to the Act

Waste Diversion

Since 1990 Californians have diverted nearly 140 million tons of solid waste from landfills - enough to fill a line of garbage trucks that would circle the earth more than four times. California's rate of waste diversion has more than tripled since the time AB 939 was enacted.

In just 10 years, local governments have quantified and characterized their waste and identified, selected and voted on programs designed to achieve the mandates. In concert with the range of stakeholders and private industry, an infrastructure was and is being designed, specified, funded, built, equipped, blessed by governing bodies, and operated. Today, California has a broad-based infrastructure in place and growing that will accommodate diversion of at least half the state's entire waste stream.

California's progress is sternly tested by a number of factors:

- California's soaring economy, which greatly increases waste generation

- The fact that many waste reduction programs being implemented by local jurisdictions still have not reached their full potential; others are coming on line and hold great promise.
- While California's marketplace may set the standard for accepting post consumer materials into the mix, segments of the economy remain untapped, and some are subject to fluctuating, and often meager, secondary materials markets.

The latter has presented a particularly difficult challenge for the Board as it devised strategies designed to stimulate markets and promote entrepreneurial activity without intruding into a marketplace that belongs to business and consumers.

Legislation has been signed affording local jurisdictions time extensions to meet the mandate. Senate Bill 1066 (Sher), in particular, enables the Board to grant extensions of up to five years beyond 2000 to jurisdictions that are struggling to meet the mandate but have in place a plan to comply with the law within the period of the extension.

With regard to the landfill capacity crisis, California's leadership in recycling is not, and never has been, exclusively a product of landfill capacity. While capacity may not be the clarion call it once was nationally, California remains a place where new landfill proposals are subject to an intense review often several years in length. More important, however, is the fact that the Act responded to the dire need for an integrated approach to waste management. This approach, which is enabling California to more sensibly handle its waste and conserve resources, is embodied in a new infrastructure, which will benefit the state for generations to come.

The Infrastructure

The state's new waste management infrastructure is the crown jewel in California's quiet revolution in waste management. Put into place by private industry and local government over the last decade, it represents an investment of hundreds of millions of dollars. As an infrastructure now ensconced in every region of the state, its benefits to California will be delivered not just over the short term, but well into the future.

Where once only landfills stood, scattered across California today are technologically and environmentally sound facilities adeptly designed to divert waste for reuse. Material recovery facilities, transfer stations, composting operations, and other facilities are an integral part of California's waste handling activities.

Other important elements of the infrastructure include waste reduction and recycling programs created by local jurisdictions, and partnerships of public and private sector interests working to break down barriers and expand material recovery opportunities for local governments and private businesses.

One of the ongoing benefits of these resilient partnerships is the growing acceptance among private enterprise that waste reduction and recycling activities are good for the bottom line as well as the environment. Programs integrated into business operations large and small are reaping millions of dollars in annual savings through reuse and avoided disposal costs.

Public Commitment

Californians, for their part, have embraced this effort that, above most other environmental protection programs, allows everyone the chance to participate - to make a difference by reducing, reusing, recycling, and buying products made with recovered materials. Today, an estimated 28 million Californians have access to curbside recycling, and, since passage of the Act, residential yard waste collection has expanded by an astounding 450 percent.

While recycling and waste reduction have become common household practices, many people are taking action outside the home as well. For instance, eliminating excessive packaging for many items, including compact discs and fast food meals, was the direct result of consumer demand. Interestingly, the intensity of this consumer awareness is partly driven by the recycling message that children bring home from school.

Public Health and Safety

The Board's efforts over the last decade have substantially improved public health and safety as it relates to the siting and operation of waste handling facilities including landfills:

- The Board certified 56 local enforcement agencies that ensure operating standards are adhered to at the local level.

- The Board revised and brought up to date more than 300 permits to reflect new performance standards.
- The number of long-term violators has been reduced from 48 to 18.
- Nearly 90 closed, illegal, or abandoned waste sites have been, or are in the process of being cleaned up. The Board, through the State-funded tire pile cleanup program, has removed more than 10 million tires from 30 sites around the state.

The Board has also been innovative in its efforts to build a solid regulatory framework. In 1994, the Board established a tiered permitting structure to ensure that waste facilities are regulated at a level reflecting the environmental risks associated with their particular operations. This tiered approach - lauded by industry, local government, and environmental interests - is one of several reforms undertaken by the Board to simplify, streamline, and otherwise improve regulatory efficiency.

Toward Full Implementation of the Act

Priority Areas

In 1997 the Board, through collaboration with affected parties, identified four key elements to achieving 50 percent diversion of waste: greater recycling and reuse of organic materials and construction and demolition waste, which collectively account for nearly half of the state's waste stream; improving facility compliance; and assistance to local jurisdictions accountable for meeting the mandate. While considerable progress has been realized in all areas, more work remains to be done, and several obstacles must be overcome before 50 percent is achieved.

Market Development

Expanding markets for recovered recyclables is absolutely essential to making further progress in the state's waste diversion efforts. Central to this is solidifying a "buy recycled" ethic, especially in the commercial sector. To date, the Board has aggressively assumed an advocacy role in support of market development, implementing key initiatives outlined in its 1993 and 1996 market development plans. As a result of these plans and the market development aspects of SB 1066, the Board sought and received additional funds to bolster its efforts.

The Board's Recycling Market Development Zone program is the first of its kind in the nation. These enterprise zones for recycling-based manufacturing activity today number 40 around the state. Startup and expanding recycling businesses located in the zones are eligible for technical and financial assistance, including low-interest loans and tax credits.

Through this program, more than 4,000 new jobs have been created, and each year more than 7.6 million tons of waste is being diverted.

The Board's statutory enforcement role also fosters the expansion of markets. In the area of plastics, for instance, the Board is responsible for ensuring minimum recycling rates for a wide range of plastic packaging material. Through oversight, technical assistance, and (when necessary) compliance agreements with product manufacturers, the Board spurs expanded recycling and use of recycled plastics in the marketplace.

All these efforts will be pivotal in the commercial sector, which generates more than half of the state's waste. While many businesses have embraced the benefits of waste reduction and recycling, most have yet to capitalize upon historically untapped resources in recovered recyclables. Since businesses are not subject to the mandates of the acts, the state's challenge will continue to be helping private companies identify prudent, productive voluntary programs, while encouraging cooperative efforts between private enterprise and local jurisdictions.

Public Outreach and Environmental Education

As required by law, a public education and outreach component exists for virtually every Board program. The Board's efforts provide an opportunity to improve education and make school operations more resource efficient, through a variety of initiatives, including the Closing the Loop curriculum, which facilitates partnerships among environmental organizations and provides grant funding for school waste reduction programs.

State Agency Responsibility

State agencies are also required by law to establish recycling programs and buy recycled-content products. The Board promotes and monitors progress by each State agency through its Project Recycle program and the State Agency Buy Recycled Campaign.

State agencies should be an example for others and a force around California in the area of recycling and resource conservation.

Some progress has been made. Under Project Recycle, the number of State facility recycling programs has increased from 150 in 1991 to more than 1,800 today; the amount of material recycled during this period has expanded from only 2,000 tons a year to more than 63,000 tons a year. Nevertheless, the overall level of performance trails far behind the percentages of local jurisdictions striving to meet the requirements of the Act.

To address this need, 1999 legislation established State agency diversion mandates of 25 percent in 2002 and 50 percent in 2004, requiring each agency to also adopt an integrated plan to achieve the mandates. The Board is now assisting agencies in developing their plans.

The Board is also the driving force behind the State's Green Building Task Force whose goal is to institutionalize sustainable building practices as part of State construction projects in an efficient, practical and cost-effective manner.

Tires

California generates approximately 30 million tires every year. It is generally accepted that using products made from used tires is the ultimate solution to the waste tire problem.

Since 1990-91, market development expenditures related to used tires has totaled \$13.95 million. Areas of special emphasis include use of rubberized asphalt concrete and playground mats. To promote greater acceptance and use of rubberized asphalt concrete by local governments, the Board has allocated more than \$1.5 million to establish two technology centers located in Los Angeles and Sacramento.

The Board has also facilitated secondary uses for waste tires through its waste tire stabilization and abatement program. Of the 10 million tires removed from illegal and abandoned sites around the state since 1995, 84 percent went to productive end uses, including use as alternate daily cover, in waste-to-energy facilities, and in civil engineering applications. The remainder went to legal disposal.

Set to expire on January 1, 2001, the Board's tire program was reauthorized and strengthened by new legislation signed into law in September 2000.

Used Oil

The Board's used oil and household hazardous waste program develops and promotes alternatives to the illegal disposal of household hazardous waste. Created to promote proper handling, safe disposal and recycling, the programs are providing added benefit to the state's efforts to reduce storm water pollution as a consequence of public awareness messages that warn about dumping in storm drains.

Progress and Promise

While a number of issues and action items demanded by the drive toward 50 percent diversion remain, California's response to the Integrated Waste Management Act has been a success and underscores considerably more than numerical progress. It reflects a sea change in attitude and action. With an imposing infrastructure in place, programs coming on line and maturing, and millions of Californians committed to making a difference at home and as consumers, California's campaign to more sensibly handle its waste is well positioned to achieve greater success.

Table of Contents

Last updated: November 13, 2003

California Environmental Protection Agency <http://www.calepa.ca.gov/>

General Contact: cepacomm@calepa.ca.gov

Technical Contact: webmaster@calepa.ca.gov

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EXHIBIT "G"



Integrated Waste Management Board
1001 I Street
Sacramento, CA 95814

FIELD PHOTOGRAPHY LOG SHEET

Site Name: Filbin Jim
Aggregates

SWIS #:

Date: 10/21/04

Time: 0915

Direction: NE

Weather: Clear

Photo by: J. Hackett



Photograph Description:

Site Name: Filbin Jim
Aggregates

SWIS #:

Date: 10/21/04

Time: 0915

Direction: N

Weather: Clear

Photo by: J. Hackett



Photograph Description:



Integrated Waste Management Board
1001 I Street
Sacramento, CA 95814

FIELD PHOTOGRAPHY LOG SHEET

Site Name: Filbin Jim
Aggregates

SWIS #:

Date: 10/21/04

Time: 0915

Direction: NW

Weather: Clear

Photo by: J. Hackett



Photograph Description:



FIELD PHOTOGRAPHY LOG SHEET

Site Name: Filbin Jim
Aggregates

SWIS #:

Date: 10/21/04

Time: 0915

Direction: W

Weather: Clear

Photo by: J. Hackett



Photograph Description:

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Aggregates

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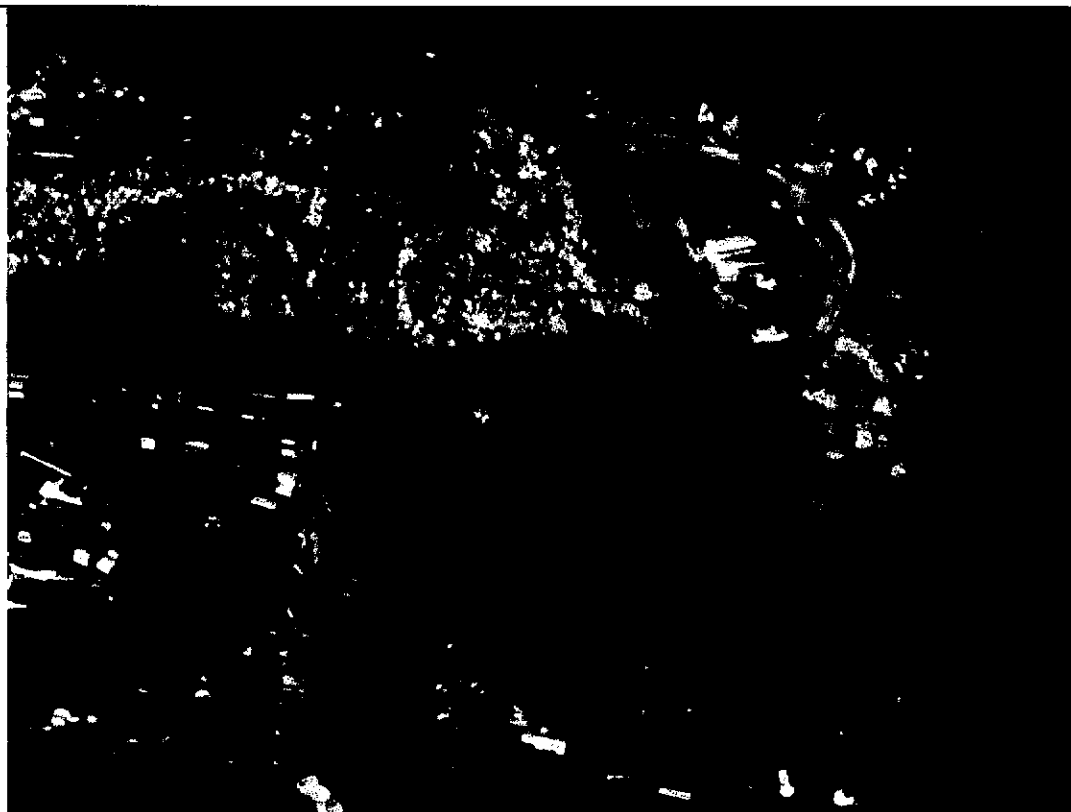
Date: 10/21/04

Time: 0915

Direction: W

Weather: Clear

Photo by: J. Hackett



Photograph Description:



Integrated Waste Management Board
1001 I Street
Sacramento, CA 95814

FIELD PHOTOGRAPHY LOG SHEET

Site Name: Filbin Jim
Aggregates

SWIS #:

Date: 10/21/04

Time: 0915

Direction: S

Weather: Clear

Photo by: J. Hackett



Photograph Description:

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Aggregates

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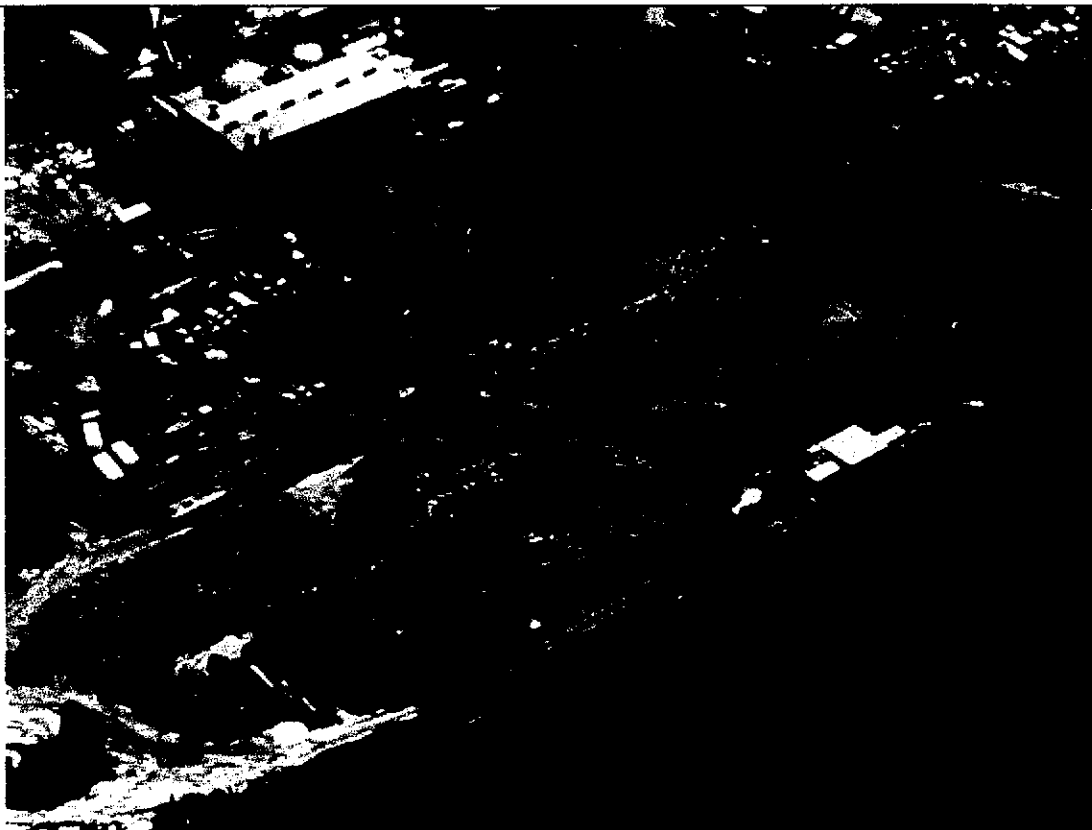
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Weather: Clear

Photo by: J. Hackett



Photograph Description:



Integrated Waste Management Board
1001 I Street
Sacramento, CA 95814

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Weather: Clear

Photo by: J. Hackett



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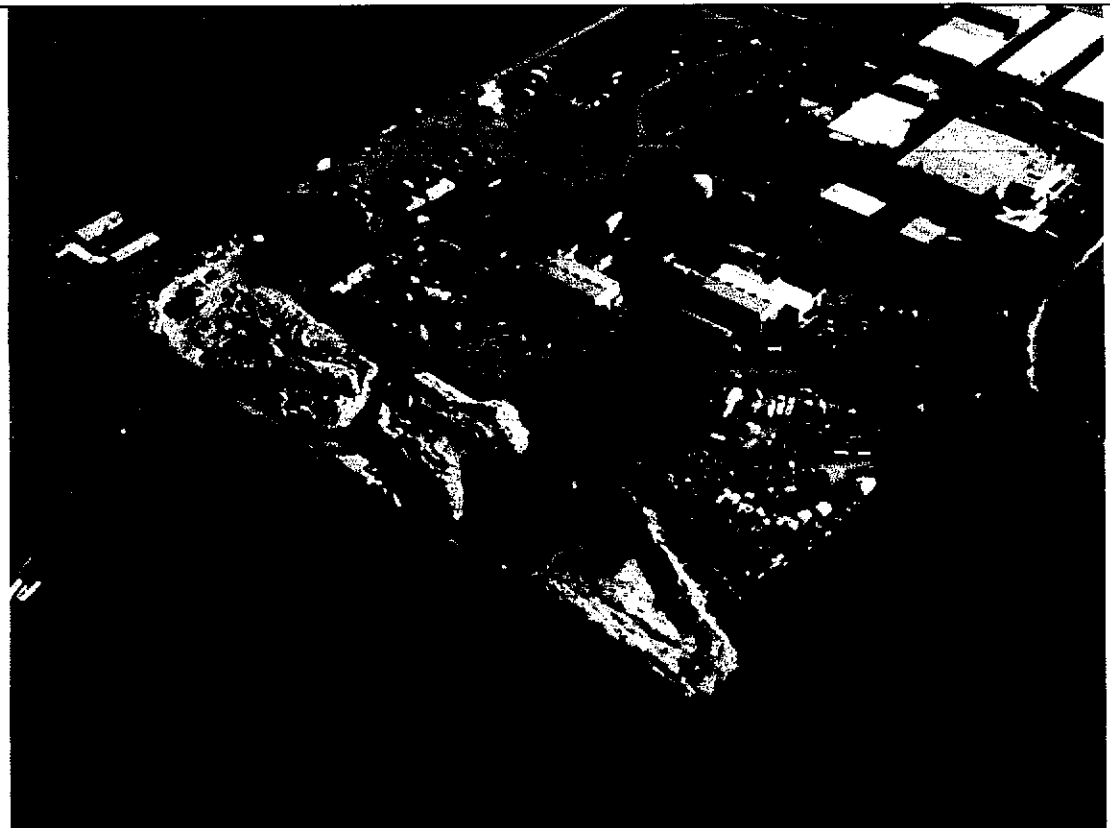
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Weather: Clear

Photo by: J. Hackett



Photograph Description:



Integrated Waste Management Board
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Sacramento, CA 95814

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Time: 0915

Direction: NW

Weather: Clear

Photo by: J. Hackett



Photograph Description:

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Aggregates

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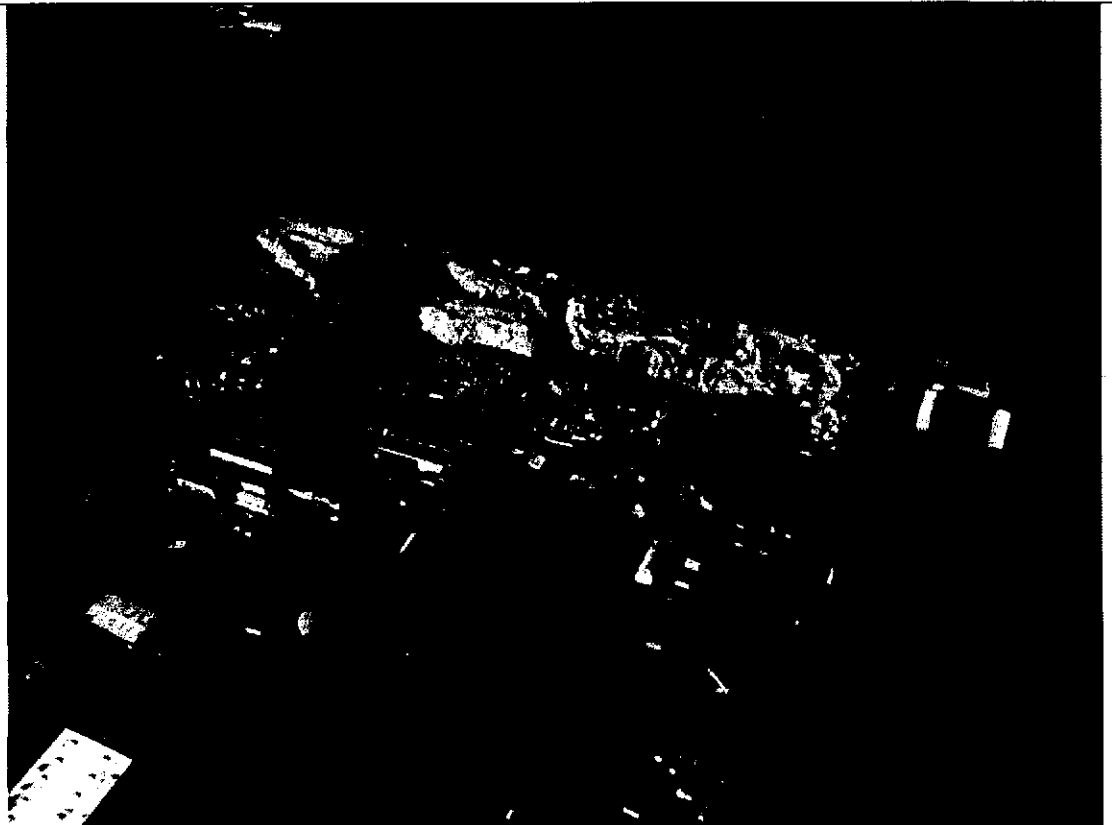
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Weather: Clear

Photo by: J. Hackett



Photograph Description:



FIELD PHOTOGRAPHY LOG SHEET

Site Name: Filbin Jim
Aggregates

SWIS #:

Date: 10/21/04

Time: 0915

Direction: S

Weather: Clear

Photo by: J. Hackett



Photograph Description:

Site Name: Filbin Jim
Aggregates

SWIS #:

Date: 10/21/04

Time: 0915

Direction: NE

Weather: Clear

Photo by: J. Hackett



Photograph Description:



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Sacramento, CA 95814

FIELD PHOTOGRAPHY LOG SHEET

Site Name: Filbin Jim
Aggregates

SWIS #:

Date: 10/21/04

Time: 0915

Direction: N

Weather: Clear

Photo by: J. Hackett



Photograph Description:

Site Name: Filbin Jim
Aggregates

SWIS #:

Date: 10/21/04

Time: 0915

Direction: W

Weather: Clear

Photo by: J. Hackett



Photograph Description:

EXHIBIT "H"

BILL LOCKYER, Attorney General of the State of California
MARY E. HACKENBRACHT
Senior Assistant Attorney General
RALPH J. VENTURINO SBN 173415
Deputy Attorney General
1300 I Street, P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 322-2573
Fax: (916) 327-2319

Michael L. Bledsoe, Senior Staff Counsel
Attorneys for Applicant. CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO**

IN THE MATTER OF THE INSPECTION OF:)
PREMISES LOCATED IN SAN LUIS OBISPO)
COUNTY KNOWN AS ASSESSOR'S PARCEL)
NO.: 076-371-012; ALSO KNOWN AS 4398)
SANTA FE ROAD, SAN LUIS OBISPO.)
CALIFORNIA; ALSO KNOWN AS JIM)
FILBIN AGGREGATES)
OWNER: JAMES FILBIN)

Case No. 6500

**NOTICE OF EXECUTION OF
WARRANT**

[Code of Civ. Proc., § 1822.56]

To (Via Fax):

Wiley P Ramey, Jr.
P O Box 170
San Simeon, CA 93452
(805) 541-5536
FAX: 805.782.0295
wilevramey@aol.com

Mr. James Filbin:
Phone: (805) 543-1383
FAX: (805) 544-8729

For: PREMISES LOCATED IN SAN LUIS OBISPO COUNTY
KNOWN AS ASSESSOR'S PARCEL NO.: 076-371-012;
ALSO KNOWN AS 4398 SANTA FE ROAD, SAN LUIS OBISPO, CALIFORNIA;
ALSO KNOWN AS JIM FILBIN AGGREGATES
OWNER: JAMES FILBIN

NOTICE IS HEREBY GIVEN to you as counsel and owner/operator, respectively, concerning Jim Filbin Aggregates, located in San Luis Obispo County, known as Assessor's Parcel No.: 076-371-012; also known as 4398 Santa Fe Road, San Luis Obispo, California; also known as Jim Filbin Aggregates. Owner: James Filbin, that, on the 23rd day of May, 2005, the San Luis Obispo Superior Court issued a warrant to the California Integrated Waste Management Board (CIWMB) for the inspection of the above described property pursuant to the Integrated Waste Management Act (Pub. Resources Code, § 40000 et seq.), and Code of Civil Procedure section 1822.50 et seq. (Inspection Warrants).

You are further notified that such inspection is permitted with 24 hours notice to the operator.

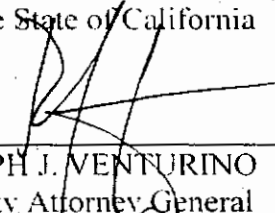
Pursuant to the terms on the attached warrant, the CIWMB intends to begin the inspection of Assessor's Parcel No.: 076-371-012 on 5/25/05 at approximately 9:00 a.m.

Your refusal to permit an inspection as authorized by the warrant is punishable by law as a misdemeanor under Section 1822.57 of the Code of Civil Procedure.

Dated: 5/23/05

BILL LOCKYER, Attorney General
of the State of California

By


RALPH J. VENTURINO
Deputy Attorney General
Attorneys for Applicants
California Integrated Waste Management Board

BILL LOCKYER, Attorney General of the State of California
 MARY E. HACKENBRACHT
 Senior Assistant Attorney General
 RALPH J. VENTURINO SBN 173415
 Deputy Attorney General
 1300 I Street, P.O. Box 944255
 Sacramento, CA 94244-2550
 Telephone: (916) 322-2573
 Fax: (916) 327-2319

Michael L. Bledsoe, SBN 124177, Senior Staff Counsel
 Attorneys for Applicant CALIFORNIA
 INTEGRATED WASTE MANAGEMENT BOARD

**SUPERIOR COURT OF CALIFORNIA
 COUNTY OF SAN LUIS OBISPO**

IN THE MATTER OF THE INSPECTION OF:)

No. 6500

PREMISES LOCATED IN SAN LUIS OBISPO)
 COUNTY KNOWN AS ASSESSOR'S PARCEL)
 NO.: 076-371-012; ALSO KNOWN AS 4398)
 SANTA FE ROAD, SAN LUIS OBISPO,)
 CALIFORNIA; ALSO KNOWN AS JIM)
 FILBIN AGGREGATES)
 OWNER: JAMES FILBIN)

[Proposed] INSPECTION WARRANT
 FOR 4398 SANTA FE ROAD, SAN
 LUIS OBISPO, CALIFORNIA, APN:
 076-371-012; ALSO KNOWN AS JIM
 FILBIN AGGREGATES

THE PEOPLE OF THE STATE OF CALIFORNIA TO:

THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD.

PROOF, by affidavit, having been made before me by JEFF HACKETT, an Integrated Waste
 Management Specialist and employee of the California Integrated Waste Management Board (CIWMB)
 who is responsible for inspecting property in San Luis Obispo County, California, to determine whether
 the storage, transfer, processing or disposal regulation of solid waste is subject to regulation under State
 law;

1 THAT, as an agency of the State of California, CIWMB IS EMPOWERED to inspect real
2 property and personal property to determine the application of State solid waste laws pursuant to the
3 Integrated Waste Management Act (the Act) (Pub. Resources Code, § 40000 et seq.),¹ and more
4 particularly sections 43209, subdivision (h), 43218, 44100 and 44101 of the Act, and regulations
5 promulgated by CIWMB under the Act, codified in Titles 14 and 27 of the California Code of
6 Regulations (State Regulations), particularly section 18083 of the State Regulations. (Cal. Code Regs.,
7 tit. 14, § 18083.);
8

9 AND, THERE IS REASON TO BELIEVE that there exists at 4398 SANTA FE ROAD, SAN
10 LUIS OBISPO, CALIFORNIA, APN: 076-371-012, JAMES FILBIN, OWNER; ALSO KNOWN AS
11 JIM FILBIN AGGREGATES; conditions of nonconformity with the requirements of section 44002,
12 subdivisions (a)(1) of the Act [solid waste facilities permit required to operate a solid waste facility] and
13 sections 17383.4 through 17383.8 [solid waste facilities permit required to store, transfer, process or
14 otherwise handle construction and demolition debris and inert debris] and sections 17388.3 through
15 17388.5 [solid waste facilities permit required to dispose construction and demolition debris and inert
16 debris] of the State Regulations. (Cal. Code Regs., tit. 14, §§ 17383.4-17383.8, 17388.3-17388.5.);
17

18 AND, there is authorization for the issuance of an INSPECTION WARRANT, based on sections
19 44100 and 44101 of the Act and section 1822.51 of the Code of Civil Procedure;
20

21 YOU ARE THEREFORE COMMANDED to enter and inspect, investigate and search the entire
22 premises known as 4398 SANTA FE ROAD, SAN LUIS OBISPO, CALIFORNIA, APN: 076-371-012,
23 ALSO KNOWN AS JIM FILBIN AGGREGATES;
24

25 SUCH INSPECTION SHALL INCLUDE the necessary number of qualified persons, including
26 without limitation CIWMB employees and its designees, and the observation of physical conditions or
27

28 ¹ All further references to codes are to the Public Resources Code unless specified otherwise.

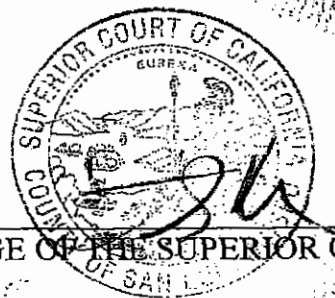
processes, the taking of photographs (including video photography), the measurement of land areas using available technology, the measurements of amounts of solid waste, the evaluation of the composition of solid waste, taking samples of solid waste, and the questioning or conferring with persons on the property to obtain information concerning the present or intended use of solid waste, any plans for the future use of the property and any violations of the Act or State Regulations; the inspection personnel shall not interfere with the property owner's or the facility operator's observation of such inspection; information concerning customer names and product pricing shall not be released by the inspection personnel;

THE INSPECTION shall be reasonably conducted during normal business hours and not between 6:00 p.m. of any day and 8:00 a.m. of the succeeding day, without permission, so as to effect as minimal an intrusion as possible on the normal operation of the property owner or other person in lawful possession of the property and their employees;

AND THIS INSPECTION shall be at and on the site of 4398 SANTA FE ROAD, SAN LUIS OBISPO, CALIFORNIA, APN: 076-371-012, ALSO KNOWN AS JIM FILBIN AGGREGATES.

THIS WARRANT SHALL EXPIRE AT MIDNIGHT ON 5/27/05

DATED: 5/23/05



JUDGE OF THE SUPERIOR COURT

BILL LOCKYER, Attorney General of the State of California
 MARY E. HACKENBRACHT
 Senior Assistant Attorney General
 RALPH J. VENTURINO SBN 173415
 Deputy Attorney General
 1300 I Street, P.O. Box 944255
 Sacramento, CA 94244-2550
 Telephone: (916) 322-2573
 Fax: (916) 327-2319

Michael L. Bledsoe, SBN 124177, Senior Staff Counsel
 Attorneys for Applicant CALIFORNIA
 INTEGRATED WASTE MANAGEMENT BOARD

**SUPERIOR COURT OF CALIFORNIA
 COUNTY OF SAN LUIS OBISPO**

IN THE MATTER OF THE INSPECTION OF:)

No.

6500

PREMISES LOCATED IN SAN LUIS OBISPO)
 COUNTY KNOWN AS ASSESSOR'S PARCEL)
 NO.: 076-371-012; ALSO KNOWN AS 4398)
 SANTA FE ROAD, SAN LUIS OBISPO,)
 CALIFORNIA; ALSO KNOWN AS JIM)
 FILBIN AGGREGATES)
 OWNER: JAMES FILBIN)

**DECLARATION OF JEFF HACKETT
 IN SUPPORT OF APPLICATION
 FOR INSPECTION WARRANT**

[Application for Warrant and [Proposed]
 Inspection Warrant Filed Concurrently
 Herewith]

I, JEFF HACKETT, declare:

1. I am employed as an Integrated Waste Management Specialist with the California Integrated Waste Management Board (CIWMB). One of my assignments is to inspect sites which do not have solid waste facilities permits, but where solid waste is processed, stored, disposed, transferred or otherwise handled, to determine whether the activity requires a solid waste facilities permit or is subject to other regulation under the Integrated Waste Management Act (Pub. Resources Code, § 40000 et seq.)¹ (the Act) and regulations adopted by CIWMB pursuant to the Act (State Regulations). My other duties

¹ All further references to codes are to the Public Resources Code unless specified otherwise.

1 include the inspection of permitted facilities in San Luis Obispo County, including landfills, transfer
2 stations, compost facilities, construction and demolition debris processing facilities and disposal
3 facilities, inert debris processing and disposal facilities and other solid waste handling activities to
4 determine whether such facilities are in compliance with the Act. Under supervision, I also prepare
5 proposed solid waste facilities permits in response to applications from the operators of solid waste
6 facilities, submit them to the CIWMB Board for concurrence and issue permits. I have performed these
7 duties for 14 years as an employee of CIWMB. I have personal knowledge of the facts set forth in this
8 declaration, unless it is stated that the facts are based upon information and belief. If called to do so, I
9 can competently testify as to these statements.
10
11

12 2. I have worked at CIWMB since September 4, 1990. In my duties as an employee of
13 CIWMB, I am charged with enforcing the Act and State Regulations and am required to make
14 determinations as to whether the acts of persons constitute violations of the Act or State Regulations.
15 Pursuant to Public Resources Code sections 44100 and 44101, I am authorized to conduct an inspection
16 of the premises described as: Assessor's Parcel No.: 076-371-012, located at 4398 Santa Fe Road, San
17 Luis Obispo, County of San Luis Obispo, State of California, and also known as Jim Filbin Aggregates
18 (herein, the Filbin Site or the Site). Since August of 1992, I have been assigned to the Enforcement
19 Agency unit at the CIWMB, which serves as the enforcement agency (EA) for various jurisdictions in
20 California.
21
22

23 3. In 2004, CIWMB became the EA for San Luis Obispo County. The CIWMB now has the
24 primary responsibility for permitting and enforcement of the Act and State Regulations respecting solid
25 waste facilities pursuant to sections 43202 and 43205, subdivision (a) in San Luis Obispo County.
26

27 4. The purpose of this application for an inspection warrant is to inspect the Filbin Site to
28 determine whether its owner, lessee or other person in possession of the Filbin Site is in compliance with

CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements (Cal. Code Regs., tit. 14, § 17380 et seq.), Construction and Demolition and Inert Debris Disposal Regulatory Requirements (Cal. Code Regs., tit. 14, § 17387 et seq.), and other laws or regulations administered by the CIWMB. During the course of the inspection, photographs documenting conditions on the Site will be collected, samples of the solid waste on Site will be taken and measurements to ascertain the approximate amounts of solid waste on the Site will be taken.

5. I have reason to believe that Mr. James Filbin is the owner of the Filbin Site in that I have reviewed real property records, of the San Luis Obispo County Assessor's Office, which show that he is the property owner.

6. This application for an inspection warrant is being made upon my reasonable belief that one or more of the following activities are being conducted at the Filbin Site: the storage, transfer, processing or disposal of construction and demolition debris and inert debris, which activities are subject to regulation under the Act and State Regulations.

7. My reasonable belief is based on my visual observations of the Site on September 21, 2004 from a location on Santa Fe Road which abuts the Filbin Site and in an aerial flight over the Site on October 21, 2004, during both of which I observed several large stockpiles of materials on the Site that appeared to be primarily comprised of asphalt and concrete, materials that are included within the definitions of "construction and demolition debris," "inert debris" and "construction and demolition waste." (These terms are defined at California Code of Regulations, title 14, sections 17381, subdivisions (3) & (k) and section 17388, subdivisions (c) & (k).) The storage, transfer, processing, and disposal of construction and demolition debris, inert debris and construction and demolition waste are subject to regulation under the Act and State Regulations. (See § 44002, subd. (a)(1); Cal. Code Regs., tit. 14, § 17380 et seq.; Cal. Code Regs., tit. 14, § 17387 et seq.) On September 21, 2004, I observed

1 three large stockpiles from the road abutting the Filbin Site, which appeared to be comprised of concrete
2 and asphalt. During the flight on October 21, 2004, I observed four large stockpiles of materials, two of
3 which appeared to be concrete and asphalt, one smaller stockpile of unknown materials and one
4 stockpile of what appeared to be soil. My observations of the stockpiles were from a distance too great
5 to accurately evaluate the quantity or composition of the materials in the stockpiles. Given the size of
6 the stockpiles, it is possible that other solid waste may be in the stockpiles, which would trigger the
7 application of other requirements under the Act and State Regulations.
8

9
10 8. On September 21, 2004, I visited the Filbin Site and informed the occupant of the premises,
11 whom I believe to be Mr. James Filbin, about the possible application of the Act and State Regulations
12 to him and the Filbin Site in light of the presence of the stockpiles of solid waste I observed on the
13 property, and, in particular, CIWMB's regulation of facilities transferring, storing, processing or
14 disposing of construction and demolition debris and inert debris, such as concrete and asphalt. I
15 requested that Mr. Filbin permit me to inspect the Site to determine if the solid waste handling activity
16 on the Site was subject to regulation under the Act and State Regulations. Mr. Filbin refused to consent
17 to my inspection of the Site at the time of my visit and failed to contact me, as requested, to arrange for
18 an inspection of the Site at a later date. (See letter from my supervisor, Ms. Sue Markie, to Mr. James
19 Filbin, dated September 29, 2004, attached hereto as Exhibit "A.")
20

21
22 9. On November 29, 2004, Mr. Michael Bledsoe, Staff Counsel of CIWMB, wrote to Mr. James
23 Filbin, explaining the basis for the request to inspect the Site and requesting that Mr. Filbin contact Ms.
24 Markie to arrange for such an inspection, and informing Mr. Filbin that his failure to contact Ms. Markie
25 and to arrange for an inspection of the Site, CIWMB would obtain an inspection warrant in order to
26 inspect the Site without his consent. (See letter from Mr. Michael L. Bledsoe, Senior Staff Counsel, to
27 Mr. James Filbin, dated November 29, 2004, attached hereto as Exhibit "B.") Mr. Filbin subsequently
28

1 failed to arrange for a consensual inspection of the Site. Mr. Bledsoe wrote another letter to Mr. Filbin
2 on January 27, 2005 advising him that CIWMB understood Mr. Filbin refused to consent to an
3 inspection of the Site and that CIWMB intended to proceed to obtain an inspection warrant. (See letter
4 from Mr. Michael L. Bledsoe, Senior Staff Counsel, to Mr. James Filbin, dated January 27, 2005,
5 attached hereto as Exhibit "C.") At no time has Mr. Filbin consented to an inspection of the Site by
6 CIWMB.
7

8 10. On April 19, 2005, I viewed the Site again from a location on Santa Fe Road which abuts the
9 Filbin Site. The stockpiles of solid waste were still present on the Site.
10

11 11. On approximately May 6, 2005, I telephoned Mr. Filbin in an attempt to obtain his consent
12 to our inspection of the Site. No one answered the telephone. I left a message on Mr. Filbin's
13 answering machine stating our desire to obtain his consent to the inspection of the Site and requesting
14 that Mr. Filbin call me back. Neither Mr. Filbin nor his representative called me back.
15

16
17 I declare under penalty of perjury under the laws of the State of California that the foregoing is
18 true and correct to the best of my knowledge and belief.
19

20 DATED: 5/23/05

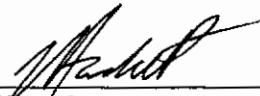

21 JEFF HACKETT, Declarant
22 Integrated Waste Management Specialist
23 California Integrated Waste Management Board
24
25
26
27
28

EXHIBIT "A"



Terry Tammunen
Secretary for
Environmental
Protection

California Integrated Waste Management Board

Rosario Marin, Chair
1001 I Street • Sacramento, California 95814 • (916) 341-6000
Mailing Address: P. O. Box 4025, Sacramento, CA 95812-4025
www.ciwmb.ca.gov



Arnold Schw
Gove

September 29, 2004

CERTIFIED MAIL - 7002 3150 0005 2347 1389

Mr. James Filbin, Owner
Jim Filbin Aggregates
4398 Santa Fe Road
San Luis Obispo, CA 93401

SUBJECT: Jim Filbin Aggregates. Assessor Parcel Number 076-371-012. San Luis Obispo County

Dear Mr. Filbin:

On September 21, 2004, Jeff Hackett of the California Integrated Waste Management Board (CIWMB), acting as the Enforcement Agency for San Luis Obispo County, attempted to conduct a site visit of the above-described property that you own. The purpose of CIWMB staff's site visit was twofold:

1. Investigate the large stockpiles of concrete and asphalt on the property that are visible from Santa Fe Road in San Luis Obispo in order to evaluate if the solid waste handling activity is subject to the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements, Construction and Demolition and Inert Debris Disposal Regulatory Requirements, or other laws or regulations administered by the CIWMB; and
2. Provide and discuss with the owner/operator of the site the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements and Construction and Demolition and Inert Debris Disposal Regulatory Requirements contained in Title 14 of the California Code of Regulations (CCR), Chapter 3, Article 5.9 and Article 5.95, commencing at Section 17380 and Section 17387, respectively.

At the time of the September 21, 2004 site visit, Mr. Hackett met with an occupant of the property who would not provide his name. The person refused to allow Mr. Hackett to inspect the property. After a brief discussion of the regulations, Mr. Hackett gave the occupant a copy of 14 CCR, Chapter 3, Article 5.9. Enclosed with this letter are copies of both Articles 5.9 and 5.95.

Based on Mr. Hackett's initial observations, it appears that the activities at the site may be subject to regulation as either a transfer/processing activity or a disposal activity and may, therefore, be required to obtain a solid waste facilities permit or to comply with the CIWMB's enforcement agency notification procedures. It is possible, however, that the activity at the site is exempt from the CIWMB's regulations. An inspection of the site is necessary to determine whether the activity is subject to regulation, and, if so, what level of regulation applies.

California Environmental Protection Agency

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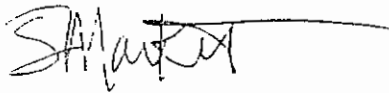
It is hereby requested that you contact Mr. Hackett at (916) 341-6413 no later than October 15, 2004, to arrange for CIWMB staff to inspect your property to determine the permitting requirements and minimum operating standards for the receipt, storage, handling, transfer, or processing of construction and demolition debris that is currently taking place on your property. The CIWMB as the Enforcement Agency is authorized by statute to inspect your property, pursuant to Public Resources Code Sections 4400 and 4401. If you do not consent to the inspection, the CIWMB will seek an inspection warrant pursuant to Code of Civil Procedure Sections 1822.50, et seq.

As the solid waste enforcement agency, the CIWMB is authorized to charge the owner/operator of a solid waste facility or a solid waste enterprise for its services when performing the duties of the solid waste enforcement agency. The current billing rate is \$105.15 per hour. As a result, all costs incurred while inspecting, reviewing pertinent documentation, and preparing correspondence will be billed to the owner/operator of the solid waste facility or solid waste enterprise.

CIWMB staff looks forward to your cooperation with inspecting your property to determine the applicability of the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing and Disposal Regulatory Requirements with regard to the large stockpiles of concrete and asphalt and any other solid waste stored on your property.

If you have any questions or comments regarding this matter, please contact me at (916) 341-6324 or Jeff Hackett or my staff at (916) 341-6413.

Sincerely,



Susan Markie, Supervisor
Enforcement Assistance Section
Facilities Operations Branch
Permitting and Enforcement Division

Enclosure

cc: San Luis Obispo County Planning and Building Department

)

)

EXHIBIT "B"

California Integrated Waste Management Board

Rosario Marin, Chair

1001 I Street • Sacramento, California 95814 • (916) 341-6000

Mailing Address: P. O. Box 4025, Sacramento, CA 95812-4025

www.ciwmb.ca.gov



Arnold Schwarzenegger
Governor

November 29, 2004

CERTIFIED MAIL -- RETURN RECEIPT REQUESTED

Mr. James Filbin, Owner
Jim Filbin Aggregates
4398 Santa Fe Road
San Luis Obispo, CA 93401

SUBJECT: Jim Filbin Aggregates, Assessor Parcel Number 076-371-012, San Luis Obispo County

Dear Mr. Filbin:

Per your request during a phone conversation with Susan Markie, Supervisor of the California Integrated Waste Management Board (CIWMB) Enforcement Agency Section on November 15, 2004, attached are copies from the California Environmental Protection Agency website outlining the history of the CIWMB. As indicated in your conversation with Susan, you received a letter from the CIWMB, dated September 29, 2004. That letter stated that the CIWMB, acting as the Enforcement Agency for San Luis Obispo County, attempted to conduct a site visit of the above-described property that you own on September 21, 2004. The purpose of CIWMB staff's site visit was twofold:

1. Investigate the large stockpiles of concrete and asphalt on the property that are visible from Santa Fe Road in San Luis Obispo in order to evaluate if the solid waste handling activity is subject to the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements, Construction and Demolition and Inert Debris Disposal Regulatory Requirements, or other laws or regulations administered by the CIWMB; and
2. Provide and discuss with the owner/operator of the site the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements and Construction and Demolition and Inert Debris Disposal Regulatory Requirements contained in Title 14 of the California Code of Regulations (CCR), Chapter 3, Article 5.9 and Article 5.95, commencing at Section 17380 and Section 17387, respectively.

An inspection of the site is necessary to determine whether the activity is subject to regulation, and, if so, what level of regulation applies. The CIWMB as the Enforcement Agency is authorized by statute to inspect your property, pursuant to Public Resources Code Sections 44100 and 44101. If you do not consent to the inspection, the CIWMB will seek an inspection warrant pursuant to Code of Civil Procedure Sections 1822.50, et seq.

California Environmental Protection Agency

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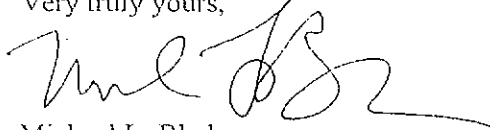
San Luis Obispo County
November 29, 2004
Page 2 of 2

Contact Susan Markie at (916) 341-6324 no later than December 13, 2004, to arrange for CIWMB staff to inspect your property to determine the permitting requirements and minimum operating standards for the receipt, storage, handling, transfer, or processing of construction and demolition debris that is currently taking place on your property. If you have not talked with Ms. Markie by that date and arranged for an inspection of your property, we will refer this matter to the Attorney General and will obtain an inspection warrant that will authorize CIWMB staff to conduct the inspection without your consent.

As the solid waste enforcement agency, the CIWMB is authorized to charge the owner/operator of a solid waste facility or a solid waste enterprise for its services when performing the duties of the solid waste enforcement agency. The current billing rate is \$102.49 per hour. As a result, all costs incurred while inspecting, reviewing pertinent documentation, and preparing correspondence will be billed to the owner/operator of the solid waste facility or solid waste enterprise.

If you have any questions or comments regarding this matter, please contact me at (916) 341-0058 or Susan Markie at (916) 341-6324.

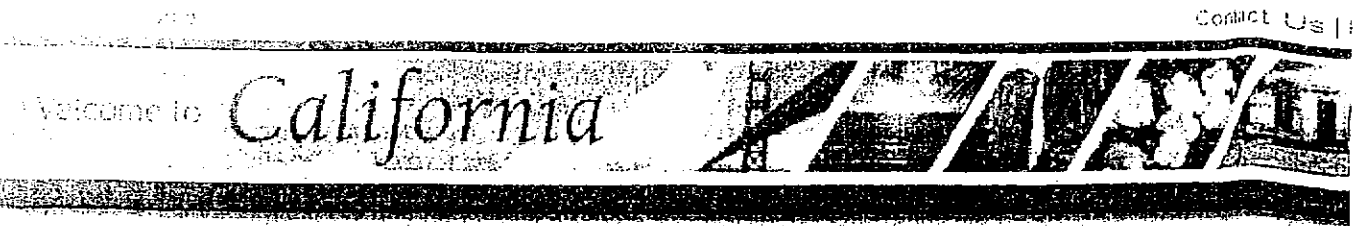
Very truly yours,



Michael L. Bledsoe
Senior Staff Counsel

Enclosures

cc: San Luis Obispo County Planning and Building Department
Mark Leary, Executive Director
Marie Carter, Chief Counsel



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California Environmental Protection Agency

◀ This Site

The History of the California Environmental Protection Agency

Integrated Waste Management Board

California's first significant regulation of solid waste disposal began with enactment of the Solid Waste Management and Resource Recovery Act of 1972 (Chapter 342, Statutes of 1972). This statute created the Solid Waste Management Board, giving it broad authority related to solid waste handling, disposal and reclamation. Principle responsibilities of the Board were the creation of state solid waste management and resource recovery policy, develop minimum standards for solid waste handling and disposal, and approval of county solid waste management plans. Each of the state's 58 counties was given the responsibility of developing a solid waste management plan and submitting to the Board by January 1, 1976 a long-term solid waste management and reclamation plan, subject to the approval of its incorporated cities.

In 1976, the Legislature created a permitting and enforcement program for solid waste facilities around the concept of local enforcement agencies (Chapter 1309, Statutes of 1976). This program is an element of the state's solid waste permitting and enforcement program remains intact today.

Early development of California's curbside recycling infrastructure was encouraged under a Board grant program established by the Litter Control, Recycling and Resource Conservation Act (Chapter 1161, Statutes of 1977). Through grants to local government, nonprofits and private companies, the Board facilitated development of new curbside recycling technology and became a national leader as these techniques became the standard for communities across the country. Local investigations of resource recovery (waste-to-energy) facilities were also conducted through this program. In the early 1980s as many as 42 energy recovery plants were in various stages, although nearly all succumbed to environmental pressures. Only three were ever built: Long Beach, Commerce and Stanislaus County.

Long-term maintenance of waste disposal sites became a concern in the mid-1980s and the Legislature enacted the Solid Waste Disposal and Site Hazard Reduction Act (Chapter 1309, Statutes of 1987). This law set new landfill requirements for financial assurances during operation and planning and funding post-closure maintenance activities.

The California Integrated Waste Management Board was created and its authority and responsibilities were shaped by two pieces of legislation (AB 939 and SB 1322) signed into law as the Integrated Waste Management Act of 1989.

The Act established a new approach to managing California's waste stream, the center of which was mandated goals of 25 percent diversion of each city's and county's waste from disposal to recycling or composting by 2000, along with a process to ensure environmentally safe disposal of waste that could not be diverted.

The Board plays a central role promoting achievement of the waste diversion mandates set by the state's local jurisdictions. It also fosters markets for recovered recyclables as part of its overall mission. And it enforces the legal provisions designed to protect the environment and the public's health and safety.

California continues to make progress toward the 50 percent diversion mandate. The state diversion rate reached 37 percent in 1999, continuing an upward trend that started with a 10 percent in 1989. The 1999 numbers also demonstrate how aggressively Californians have made the shift from disposal to diversion: Between 1989 and 1999 a period of tremendous economic growth, statewide waste generation increased by 3.8 million tons, or 7 percent of total generation. During the same period, statewide disposal increased by only 100,000 tons. With soaring costs, this demonstrates that the programs and the infrastructure are working: Of the nearly 4 million tons of waste generation, 97 percent was diverted and source reduced.

AB 939, by Assembly Member (now Senator) Byron Sher, also set the stage for a series of laws affecting waste management at the State and local levels, which resulted in the creation of a statewide collection infrastructure and a cultural shift that has elevated conservation of resources over the convenience of disposal. Sher has continued to be active with legislation to protect the environment. AB 939 is an example of how a single law can produce a sea change in public behavior.

The Act, along with Title 14 and Chapter 15 of California's environmental regulations, also provided a foundation to put the state on course to comply with federal standards (Subtitle D) for solid waste, including the design, construction and operation of landfills. In 1993, California became the first state to receive federal approval to assume authority over its solid waste activities. California actually exceeded the federal standards through the adoption of more stringent State regulations. Today, the environmental performance of waste handling facilities in California have steadily improved and today rank the state as a world leader.

In the AB 939 era, the sight of fully packed garbage trucks delivering waste to local landfills (and some landfills made obsolete by new standards) has been supplanted by a network of resource recovery, recycling and transfer station facilities, and state-of-the-art landfills. This network consolidates recyclables from hundreds of daily deliveries, and consolidating the residual solid waste into more efficient and less environmentally problematic transportation to regional landfills, hundreds of miles away.

A Consensus For Change

When AB 939 became law, California was diverting only about 10 percent of the more than 10 million tons of waste generated in the state. Per capita waste disposal was more than twice the national average. And much of this waste was being disposed of in aged, unlined landfills with the potential for contaminating valuable groundwater aquifers.

In one massive stroke, the Act delivered a plan to correct the course. It was forged from a process reflecting input from the full range of public and private sector stakeholders. It was passed by a Legislature controlled by one party and signed into law by a governor of another party. It was embraced by competing private sector interests, and embraced as a thoughtful approach to a daunting task.

...the new board...would be required to encourage planning that reduces, recycles and reuses waste to the maximum extent possible...the Sher approach (AB 939) makes the most sense because it is designed to bring some regulatory order to the garbage men.

-Editorial,
Sacramento Bee, May 11, 1989

A decade later, California demonstrates that tremendous progress has been made in response to the Act and many of its achievements are permanent and represent a continuing benefit to the state in future years. Yet questions remain unanswered as to how the State will address the 50 percent diversion requirements beyond 2000 and 2006.

Achievement in Response to the Act

Waste Diversion

Since 1989, Californians have diverted nearly 140 million tons of solid waste from landfills. This is equivalent to 1.4 million garbage trucks that would circle the earth more than four times. California's waste diversion rate has more than tripled since the time AB 939 was enacted.

Over the last 10 years, local governments have quantified and characterized their waste and identified and voted on programs designed to achieve the mandates. In concert with the state, local governments and private industry, an infrastructure was and is being designed, specified, equipped, blessed by governing bodies, and operated. Today, California has a broad-based infrastructure in place and growing that will accommodate diversion of at least half the state's waste stream.

California's progress is sternly tested by a number of factors:

- California's soaring economy, which greatly increases waste generation
- The fact that many waste reduction programs being implemented by local jurisdictions have not reached their full potential; others are coming on line and hold great promise.
- While California's marketplace may set the standard for accepting post-consumer waste, the mix, segments of the economy remain untapped, and some are subject to fluctuating, often meager, secondary materials markets.

The later has presented a particularly difficult challenge for the Board as it devised strategies to stimulate markets and promote entrepreneurial activity without intruding into a market that belongs to business and consumers.

Legislation has been signed affording local jurisdictions time extensions to meet the market. Bill 1066 (Sher), in particular, enables the Board to grant extensions of up to five years to jurisdictions that are struggling to meet the mandate but have in place a plan to comply within the period of the extension.

With regard to the landfill capacity crisis, California's leadership in recycling is not, and not exclusively a product of landfill capacity. While capacity may not be the clarion call it once was, nationally, California remains a place where new landfill proposals are subject to an inter-agency review process that can take several years in length. More important, however, is the fact that the Act responded to the crisis with an integrated approach to waste management. This approach, which is enabling California to sensibly handle its waste and conserve resources, is embodied in a new infrastructure, one that will benefit the state for generations to come.

The Infrastructure

The state's new waste management infrastructure is the crown jewel in California's waste management. Put into place by private industry and local government over the last decade, it represents an investment of hundreds of millions of dollars. As an infrastructure now in place in every region of the state, its benefits to California will be delivered not just over the short term but into the future.

Where once only landfills stood, scattered across California today are technologically advanced, environmentally sound facilities adeptly designed to divert waste for reuse. Material recovery transfer stations, composting operations, and other facilities are an integral part of California's waste handling activities.

Other important elements of the infrastructure include waste reduction and recycling programs by local jurisdictions, and partnerships of public and private sector interests working to break down barriers and expand material recovery opportunities for local governments and private businesses.

One of the ongoing benefits of these resilient partnerships is the growing acceptance among Californians that waste reduction and recycling activities are good for the bottom line as well as the environment. Programs integrated into business operations large and small are reaping millions of dollars in annual savings through reuse and avoided disposal costs.

Public Commitment

Californians, for their part, have embraced this effort that, above most other environmental programs, allows everyone the chance to participate - to make a difference by reducing, reusing, and buying products made with recovered materials. Today, an estimated 28 million Californians have access to curbside recycling, and, since passage of the Act, residential recycling collection has expanded by an astounding 450 percent.

Recycling and waste reduction have become common household practices, many of which have spread outside the home as well. For instance, eliminating excessive packaging for products like compact discs and fast food meals, was the direct result of consumer demand. The intensity of this consumer awareness is partly driven by the recycling message that comes from school.

Public Health and Safety

The Board's efforts over the last decade have substantially improved public health and safety related to the siting and operation of waste handling facilities including landfills:

- The Board certified 56 local enforcement agencies that ensure operating standards at the local level.
- The Board revised and brought up to date more than 500 permits to reflect new standards.
- The number of long-term violators has been reduced from 48 to 18.
- Nearly 90 closed, illegal, or abandoned waste sites have been, or are in the process of being cleaned up. The Board, through the State-funded tire pile cleanup program, has removed more than 10 million tires from 30 sites around the state.

The Board has also been innovative in its efforts to build a solid regulatory framework. In 1997 the Board established a tiered permitting structure to ensure that waste facilities are regulated in a way reflecting the environmental risks associated with their particular operations. This tiered structure, which is lauded by industry, local government, and environmental interests - is one of several reforms undertaken by the Board to simplify, streamline, and otherwise improve regulatory efficiency.

Toward Full Implementation of the Act

Priority Areas

In 1997 the Board, through collaboration with affected parties, identified four key elements for achieving 50 percent diversion of waste: greater recycling and reuse of organic materials and construction and demolition waste, which collectively account for nearly half of the state's waste stream; improved enforcement; and assistance to local jurisdictions accountable for meeting the mandate. A considerable amount of progress has been realized in all areas, more work remains to be done, and many obstacles must be overcome before 50 percent is achieved.

Market Development

Expanding markets for recovered recyclables is absolutely essential to making further progress in the state's waste diversion efforts. Central to this is solidifying a "buy recycled" ethic, especially in the commercial sector. To date, the Board has aggressively assumed an advocacy role in market development, implementing key initiatives outlined in its 1993 and 1996 market development plans. As a result of these plans and the market development aspects of SB 1066, the Board successfully secured additional funds to bolster its efforts.

The Board's Recycling Market Development Zone program is the first of its kind in the nation. It creates enterprise zones for recycling-based manufacturing activity. Today, more than 40 around the state, and expanding recycling businesses located in the zones are eligible for technical and financial assistance, including low-interest loans and tax credits.

Through this program, more than 4,000 new jobs have been created, and each year more than 1 million tons of waste is being diverted.

The Board's statutory enforcement role also fosters the expansion of markets. In the commercial sector, for instance, the Board is responsible for ensuring minimum recycling rates for a wide range of packaging material. Through oversight, technical assistance, and (when necessary) compliance agreements with product manufacturers, the Board spurs expanded recycling and use of recycled plastics in the marketplace.

All these efforts will be pivotal in the commercial sector, which generates more than half of the state's waste. More and more businesses have embraced the benefits of waste reduction and recycling.

yet to capitalize upon historically untapped resources in recovered recyclables. Since but not subject to the mandates of the acts, the state's challenge will continue to be helping companies identify prudent, productive voluntary programs, while encouraging cooperation between private enterprise and local jurisdictions.

Public Outreach and Environmental Education

As required by law, a public education and outreach component exists for virtually every program. The Board's efforts provide an opportunity to improve education and make schools more resource efficient, through a variety of initiatives, including the Closing the Loop curriculum, facilitates partnerships among environmental organizations and provides grant funding for reduction programs.

State Agency Responsibility

State agencies are also required by law to establish recycling programs and buy recycled products. The Board promotes and monitors progress by each State agency through its program and the State Agency Buy Recycled Campaign.

State agencies should be an example for others and a force around California in the area of resource conservation.

Some progress has been made. Under Project Recycle, the number of State facility recycling has increased from 150 in 1991 to more than 1,800 today; the amount of material recycled per year has expanded from only 2,000 tons a year to more than 63,000 tons a year. Nevertheless, overall level of performance trails far behind the percentages of local jurisdictions striving to meet requirements of the Act.

To address this need, 1999 legislation established State agency diversion mandates of 25 percent in 2002 and 50 percent in 2004, requiring each agency to also adopt an integrated plan to meet these mandates. The Board is now assisting agencies in developing their plans.

The Board is also the driving force behind the State's Green Building Task Force whose goal is to institutionalize sustainable building practices as part of State construction projects in an efficient and cost-effective manner.

Tires

California generates approximately 30 million tires every year. It is generally accepted that the best use of products made from used tires is the ultimate solution to the waste tire problem.

Since 1990-91, market development expenditures related to used tires has totaled \$13.9 million. Areas of special emphasis include use of rubberized asphalt concrete and playground materials. To gain greater acceptance and use of rubberized asphalt concrete by local governments, the Board has allocated more than \$1.5 million to establish two technology centers located in Los Angeles and Sacramento.

The Board has also facilitated secondary uses for waste tires through its waste tire stabilization abatement program. Of the 10 million tires removed from illegal and abandoned sites since 1995, 84 percent went to productive end uses, including use as alternate daily cover at landfills, energy facilities, and in civil engineering applications. The remainder went to legal disposal.

Set to expire on January 1, 2001, the Board's tire program was reauthorized and strengthened by legislation signed into law in September 2000.

Used Oil

The Board's used oil and household hazardous waste program develops and promotes alternatives to the illegal disposal of household hazardous waste. Created to promote proper handling, storage, and recycling, the programs are providing added benefit to the state's efforts to reduce solid waste as a consequence of public awareness messages that warn about dumping in

Progress and Promise

While a number of issues and action items identified by the draft Integrated Waste Management Act have been addressed, California's progress to the Integrated Waste Management Act has been a slow, steady, consistently more than nominal progress. It reflects a sea change in attitudes and thinking, changing infrastructure in place, programs coming on line and maturing, and individuals committed to making a difference at home and as consumers. California's commitment to handle its waste is well positioned to achieve greater success.

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Last updated: November 13, 2003

California Environmental Protection Agency <http://www.calepa.ca.gov/>
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Technical Contact: webmaster@calepa.ca.gov
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EXHIBIT "C"

California Integrated Waste Management Board



Arnold Schwarzenegger
Governor

John C. Floyd, Ph.D.
Secretary for
Environmental
Protection

Rosario Marin, Chair
1001 I Street • Sacramento, California 95814 • (916) 341-6000
Mailing Address: P. O. Box 4025, Sacramento, CA 95812-4025
www.ciwmb.ca.gov

January 27, 2005

VIA FACSIMILE

Mr. James Filbin, Owner
Jim Filbin Aggregates
4398 Santa Fe Road
San Luis Obispo, CA 93401

SUBJECT: Jim Filbin Aggregates, Assessor Parcel Number 076-371-012, San Luis Obispo County

Dear Mr. Filbin:

As we discussed in our telephone conversation on January 25, 2005, enclosed please find copies of two letters we sent you in recent months (dated September 29, 2004 and November 29, 2004), together with a reprinted version of the excerpt from the Cal/EPA web page discussing the history of CIWMB.

From our January 25 conversation, it is my understanding that you do not consent now, and do not intend to consent in the future, to an inspection of your property for the purposes described in the enclosed correspondence. Accordingly, we will proceed to obtain an inspection warrant pursuant to the procedures set out in Code of Civil Procedure Sections 1822.50, et seq. Our authority to inspect your property and to obtain such a warrant is found in Public Resources Code Sections 44100 and 44101. Should you change your mind and consent to the inspection, the following dates would be acceptable to us, upon adequate notice: February 15, 16, 17, 18, 23, 24, 25 and 28.

If you have any questions regarding this matter, or wish to schedule the inspection on one of the available dates, please contact me at (916) 341-6058. If you engage an attorney to represent you in this matter, I would be pleased to discuss this matter with him or her.

Very truly yours,

Michael L. Bledsoe
Senior Staff Counsel

Enclosures

cc: Mark Leary, Executive Director
Marie Carter, Chief Counsel
Sue Markie, Supervisor, Enforcement Assistance Branch

California Environmental Protection Agency

Printed on Recycled Paper

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web site at



Terry Tamminen
Secretary for
Environmental
Protection

California Integrated Waste Management Board

Rosario Marin, Chair
1001 I Street • Sacramento, California 95814 • (916) 341-6000
Mailing Address: P. O. Box 4025, Sacramento, CA 95812-4025
www.ciwmb.ca.gov



Arnold Schwarzenegger
Governor

September 29, 2004

CERTIFIED MAIL – 7002 3150 0005 2347 1389

Mr. James Filbin, Owner
Jim Filbin Aggregates
4398 Santa Fe Road
San Luis Obispo, CA 93401

SUBJECT: Jim Filbin Aggregates, Assessor Parcel Number 076-371-012, San Luis Obispo County

Dear Mr. Filbin:

On September 21, 2004, Jeff Hackett of the California Integrated Waste Management Board (CIWMB), acting as the Enforcement Agency for San Luis Obispo County, attempted to conduct a site visit of the above-described property that you own. The purpose of CIWMB staff's site visit was twofold:

1. Investigate the large stockpiles of concrete and asphalt on the property that are visible from Santa Fe Road in San Luis Obispo in order to evaluate if the solid waste handling activity is subject to the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements, Construction and Demolition and Inert Debris Disposal Regulatory Requirements, or other laws or regulations administered by the CIWMB; and
2. Provide and discuss with the owner/operator of the site the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements and Construction and Demolition and Inert Debris Disposal Regulatory Requirements contained in Title 14 of the California Code of Regulations (CCR), Chapter 3, Article 5.9 and Article 5.95, commencing at Section 17380 and Section 17387, respectively.

At the time of the September 21, 2004 site visit, Mr. Hackett met with an occupant of the property who would not provide his name. The person refused to allow Mr. Hackett to inspect the property. After a brief discussion of the regulations, Mr. Hackett gave the occupant a copy of 14 CCR, Chapter 3, Article 5.9. Enclosed with this letter are copies of both Articles 5.9 and 5.95.

Based on Mr. Hackett's initial observations, it appears that the activities at the site may be subject to regulation as either a transfer/processing activity or a disposal activity and may, therefore, be required to obtain a solid waste facilities permit or to comply with the CIWMB's enforcement agency notification procedures. It is possible, however, that the activity at the site is exempt from the CIWMB's regulations. An inspection of the site is necessary to determine whether the activity is subject to regulation, and, if so, what level of regulation applies.

California Environmental Protection Agency

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The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web site at <http://www.ciwmb.ca.gov>

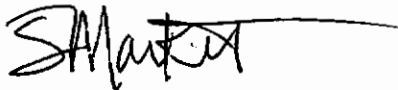
It is hereby requested that you contact Mr. Hackett at (916) 341-6413 no later than October 15, 2004, to arrange for CIWMB staff to inspect your property to determine the permitting requirements and minimum operating standards for the receipt, storage, handling, transfer, or processing of construction and demolition debris that is currently taking place on your property. The CIWMB as the Enforcement Agency is authorized by statute to inspect your property, pursuant to Public Resources Code Sections 44100 and 44101. If you do not consent to the inspection, the CIWMB will seek an inspection warrant pursuant to Code of Civil Procedure Sections 1822.50, et seq.

As the solid waste enforcement agency, the CIWMB is authorized to charge the owner/operator of a solid waste facility or a solid waste enterprise for its services when performing the duties of the solid waste enforcement agency. The current billing rate is \$105.15 per hour. As a result, all costs incurred while inspecting, reviewing pertinent documentation, and preparing correspondence will be billed to the owner/operator of the solid waste facility or solid waste enterprise.

CIWMB staff looks forward to your cooperation with inspecting your property to determine the applicability of the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing and Disposal Regulatory Requirements with regard to the large stockpiles of concrete and asphalt and any other solid waste stored on your property.

If you have any questions or comments regarding this matter, please contact me at (916) 341-6324 or Jeff Hackett of my staff at (916) 341-6413.

Sincerely,



Susan Markie, Supervisor
Enforcement Assistance Section
Facilities Operations Branch
Permitting and Enforcement Division

Enclosure

cc: San Luis Obispo County Planning and Building Department

California Integrated Waste Management Board

Rosario Marin, Chair

1001 I Street • Sacramento, California 95814 • (916) 341-6000

Mailing Address: P. O. Box 4025, Sacramento, CA 95812-4025

www.ciwmb.ca.gov

Terry Jamminen
Secretary for
Environmental
Protection



Arnold Schwarzenegger
Governor

November 29, 2004

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. James Filbin, Owner
Jim Filbin Aggregates
4398 Santa Fe Road
San Luis Obispo, CA 93401

SUBJECT: Jim Filbin Aggregates, Assessor Parcel Number 076-371-012, San Luis Obispo County

Dear Mr. Filbin:

Per your request during a phone conversation with Susan Markie, Supervisor of the California Integrated Waste Management Board (CIWMB) Enforcement Agency Section on November 15, 2004, attached are copies from the California Environmental Protection Agency website outlining the history of the CIWMB. As indicated in your conversation with Susan, you received a letter from the CIWMB, dated September 29, 2004. That letter stated that the CIWMB, acting as the Enforcement Agency for San Luis Obispo County, attempted to conduct a site visit of the above-described property that you own on September 21, 2004. The purpose of CIWMB staff's site visit was twofold:

1. Investigate the large stockpiles of concrete and asphalt on the property that are visible from Santa Fe Road in San Luis Obispo in order to evaluate if the solid waste handling activity is subject to the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements, Construction and Demolition and Inert Debris Disposal Regulatory Requirements, or other laws or regulations administered by the CIWMB; and
2. Provide and discuss with the owner/operator of the site the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements and Construction and Demolition and Inert Debris Disposal Regulatory Requirements contained in Title 14 of the California Code of Regulations (CCR), Chapter 3, Article 5.9 and Article 5.95, commencing at Section 17380 and Section 17387, respectively.

An inspection of the site is necessary to determine whether the activity is subject to regulation, and, if so, what level of regulation applies. The CIWMB as the Enforcement Agency is authorized by statute to inspect your property, pursuant to Public Resources Code Sections 44100 and 44101. If you do not consent to the inspection, the CIWMB will seek an inspection warrant pursuant to Code of Civil Procedure Sections 1822.50, et seq.

California Environmental Protection Agency

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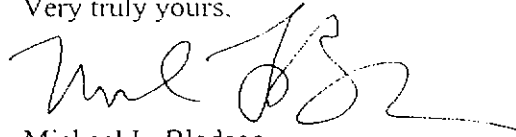
Jim Filbin Aggregates
November 29, 2004
Page 2 of 2

Contact Susan Markie at (916) 341-6324 no later than December 13, 2004, to arrange for CIWMB staff to inspect your property to determine the permitting requirements and minimum operating standards for the receipt, storage, handling, transfer, or processing of construction and demolition debris that is currently taking place on your property. If you have not talked with Ms. Markie by that date and arranged for an inspection of your property, we will refer this matter to the Attorney General and will obtain an inspection warrant that will authorize CIWMB staff to conduct the inspection without your consent.

As the solid waste enforcement agency, the CIWMB is authorized to charge the owner/operator of a solid waste facility or a solid waste enterprise for its services when performing the duties of the solid waste enforcement agency. The current billing rate is \$102.49 per hour. As a result, all costs incurred while inspecting, reviewing pertinent documentation, and preparing correspondence will be billed to the owner/operator of the solid waste facility or solid waste enterprise.

If you have any questions or comments regarding this matter, please contact me at (916) 341-6058 or Susan Markie at (916) 341-6324.

Very truly yours,



Michael L. Bledsoe
Senior Staff Counsel

Enclosures

cc: San Luis Obispo County Planning and Building Department
Mark Leary, Executive Director
Marie Carter, Chief Counsel

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The History of the California Environmental Protection Agency

Integrated Waste Management Board

California's first significant regulation of solid waste disposal began with enactment of the Solid Waste Management and Resource Recovery Act of 1972 (Chapter 342, Statutes of 1972). This statute created the Solid Waste Management Board, giving it broad authority related to solid waste handling, disposal and reclamation. Principle responsibilities of the new agency were the creation of state solid waste management and resource recovery policy, development of minimum standards for solid waste handling and disposal, and approval of county solid waste management plans. Each of the state's 58 counties was given the responsibility of developing and submitting to the Board by January 1, 1976 a long-term solid waste management and resource recovery plan, subject to the approval of its incorporated cities.



In 1976, the Legislature created a permitting and enforcement program for solid waste facilities built around the concept of local enforcement agencies (Chapter 1309, Statutes of 1976). This fundamental element of the state's solid waste permitting and enforcement program remains intact today.

Early development of California's curbside recycling infrastructure was encouraged under a Waste Board grant program established by the Litter Control, Recycling and Resource Conservation Act (Chapter 1161, Statutes of 1977). Through grants to local government, nonprofits and private companies, the Board facilitated development of new curbside recycling technology and California became a national leader as these techniques became the standard for communities across the country. Local investigations of resource recovery (waste-to-energy) facilities were also supported through this program. In the early 1980s as many as 42 energy recovery plants were in the planning stages, although nearly all succumbed to environmental pressures. Only three were eventually built in Long Beach, Commerce and Stanislaus County.

Long-term maintenance of waste disposal sites became a concern in the mid-1980s and in 1987 the Legislature enacted the Solid Waste Disposal and Site Hazard Reduction Act (Chapter 1319, Statutes of 1987). This law set new landfill requirements for financial assurances during operations and for planning and funding post-closure maintenance activities.

The California Integrated Waste Management Board was created and its authority and responsibilities were shaped by two pieces of legislation (AB 939 and SB 1322) signed into law as the Integrated Waste Management Act of 1989.

The Act established a new approach to managing California's waste stream, the centerpiece of which mandated goals of 25 percent diversion of each city's and county's waste from disposal by 1995, and 50 percent diversion in 2000, along with a process to ensure environmentally safe disposal of waste that could not be diverted.

The Board plays a central role promoting achievement of the waste diversion mandates that must be met by the state's local jurisdictions. It also fosters markets for recovered recyclables a key component of its overall mission. And it enforces the legal provisions designed to protect the environment and the public's health and safety.

The AB 939 (Sher) Legacy Unfolds

California continues to make progress toward the 50 percent diversion mandate. The statewide diversion rate reached 37 percent in 1999, continuing an upward trend that started with a rate of about 10 percent in 1989. The 1999 numbers also demonstrate how aggressively Californians have charted the shift from disposal to diversion: Between 1989 and 1999 a period of tremendous economic growth statewide waste generation increased by 3.8 million tons, or 7 percent of total generation. Incredibly, during the same period, statewide disposal increased by only 100,000 tons. With searing clarity, this demonstrates that the programs and the infrastructure are working: Of the nearly 4 million additional tons of waste generation, 97 percent was diverted and source reduced.

AB 939, by Assembly Member (now Senator) Byron Sher, also set the stage for a series of reforms affecting waste management at the State and local levels, which resulted in the creation of a statewide collection infrastructure and a cultural shift that has elevated conservation of resources over the convenience of disposal. Sher has continued to be active with legislation to protect the environment, but AB 939 is an example of how a single law can produce a sea change in public behavior.

The Act, along with Title 14 and Chapter 15 of California's environmental regulations, also provided the foundation to put the state on course to comply with federal standards (Subtitle D) for managing solid waste, including the design, construction and operation of landfills. In 1993, California became one of the first states to receive federal approval to assume authority over its solid waste activities, having actually exceeded the federal standards through the adoption of more stringent State regulations. Since then the environmental performance of waste handling facilities in California have steadily improved and today rank the state as a world leader.

In the AB 939 era, the sight of fully packed garbage trucks delivering waste to local landfills (including some landfills made obsolete by new standards) has been sup-planting by a network of material recovery, recycling and transfer station facilities, and state-of-the-art landfills. This network is recovering recyclables from hundreds of daily deliveries, and consolidating the residual solid waste into trailers for more efficient and less environmentally problematic transportation to regional landfills that are dozens to hundreds of miles away.

A Consensus For Change

When AB 939 became law, California was diverting only about 10 percent of the more than 40 million tons of waste generated in the state. Per capita waste disposal was more than twice the national rate. And much of this waste was being disposed of in aged, unlined landfills with the potential for leaking into valuable groundwater aquifers.

In one massive stroke, the Act delivered a plan to correct the course. It was forged from consensus, reflecting input from the full range of public and private sector stakeholders. It was passed by a Legislature controlled by one party and signed into law by a governor of another party. It was accepted by competing private sector interests, and embraced as a thoughtful approach to a daunting challenge.

...the new board...would be required to encourage planning that reduces, recycles and reuses garbage to the maximum extent possible...the Sher approach (AB 939) makes the most sense because it seeks to bring some regulatory order to the garbage men.

-Editorial,
Sacramento Bee, May 11, 1989

A decade later, California demonstrates that tremendous progress has been made in response to the Act and many of its achievements are permanent and represent a continuing benefit to the state in future years. Yet questions remain unanswered as to how the State will address the 50 percent requirements beyond 2000 and 2006.

Achievement in Response to the Act

Waste Diversion

Since 1990 Californians have diverted nearly 140 million tons of solid waste from landfills - enough to fill a line of garbage trucks that would circle the earth more than four times. California's rate of waste diversion has more than tripled since the time AB 939 was enacted.

In just 10 years, local governments have quantified and characterized their waste and identified, selected and voted on programs designed to achieve the mandates. In concert with the range of stakeholders and private industry, an infrastructure was and is being designed, specified, funded, built, equipped, blessed by governing bodies, and operated. Today, California has a broad-based infrastructure in place and growing that will accommodate diversion of at least half the state's entire waste stream.

California's progress is sternly tested by a number of factors:

- California's soaring economy, which greatly increases waste generation

- The fact that many waste reduction programs being implemented by local jurisdictions still have not reached their full potential; others are coming on line and hold great promise.
- While California's marketplace may set the standard for accepting post consumer materials into the mix, segments of the economy remain untapped, and some are subject to fluctuating, and often meager, secondary materials markets.

The later has presented a particularly difficult challenge for the Board as it devised strategies designed to stimulate markets and promote entrepreneurial activity without intruding into a marketplace that belongs to business and consumers.

Legislation has been signed affording local jurisdictions time extensions to meet the mandate. Senate Bill 1066 (Sher), in particular, enables the Board to grant extensions of up to five years beyond 2000 to jurisdictions that are struggling to meet the mandate but have in place a plan to comply with the law within the period of the extension.

With regard to the landfill capacity crisis, California's leadership in recycling is not, and never has been, exclusively a product of landfill capacity. While capacity may not be the clarion call it once was nationally, California remains a place where new landfill proposals are subject to an intense review often several years in length. More important, however, is the fact that the Act responded to the dire need for an integrated approach to waste management. This approach, which is enabling California to more sensibly handle its waste and conserve resources, is embodied in a new infrastructure, which will benefit the state for generations to come.

The Infrastructure

The state's new waste management infrastructure is the crown jewel in California's quiet revolution in waste management. Put into place by private industry and local government over the last decade, it represents an investment of hundreds of millions of dollars. As an infrastructure now ensconced in every region of the state, its benefits to California will be delivered not just over the short term, but well into the future.

Where once only landfills stood, scattered across California today are technologically and environmentally sound facilities adeptly designed to divert waste for reuse. Material recovery facilities, transfer stations, composting operations, and other facilities are an integral part of California's waste handling activities.

Other important elements of the infrastructure include waste reduction and recycling programs created by local jurisdictions, and partnerships of public and private sector interests working to break down barriers and expand material recovery opportunities for local governments and private businesses.

One of the ongoing benefits of these resilient partnerships is the growing acceptance among private enterprise that waste reduction and recycling activities are good for the bottom line as well as the environment. Programs integrated into business operations large and small are reaping millions of dollars in annual savings through reuse and avoided disposal costs.

Public Commitment

Californians, for their part, have embraced this effort that, above most other environmental protection programs, allows everyone the chance to participate - to make a difference by reducing, reusing, recycling, and buying products made with recovered materials. Today, an estimated 28 million Californians have access to curbside recycling, and, since passage of the Act, residential yard waste collection has expanded by an astounding 450 percent.

While recycling and waste reduction have become common household practices, many people are taking action outside the home as well. For instance, eliminating excessive packaging for many items, including compact discs and fast food meals, was the direct result of consumer demand. Interestingly, the intensity of this consumer awareness is partly driven by the recycling message that children bring home from school.

Public Health and Safety

The Board's efforts over the last decade have substantially improved public health and safety as it relates to the siting and operation of waste handling facilities including landfills:

- The Board certified 56 local enforcement agencies that ensure operating standards are adhered to at the local level.

- The Board revised and brought up to date more than 500 permits to reflect new performance standards.
- The number of long-term violators has been reduced from 48 to 18.
- Nearly 90 closed, illegal, or abandoned waste sites have been, or are in the process of being cleaned up. The Board, through the State-funded tire pile cleanup program, has removed more than 10 million tires from 30 sites around the state.

The Board has also been innovative in its efforts to build a solid regulatory framework. In 1994, the Board established a tiered permitting structure to ensure that waste facilities are regulated at a level reflecting the environmental risks associated with their particular operations. This tiered approach - lauded by industry, local government, and environmental interests - is one of several reforms undertaken by the Board to simplify, streamline, and otherwise improve regulatory efficiency.

Toward Full Implementation of the Act

Priority Areas

In 1997 the Board, through collaboration with affected parties, identified four key elements to achieving 50 percent diversion of waste: greater recycling and reuse of organic materials and construction and demolition waste, which collectively account for nearly half of the state's waste stream; improving facility compliance; and assistance to local jurisdictions accountable for meeting the mandate. While considerable progress has been realized in all areas, more work remains to be done, and several obstacles must be overcome before 50 percent is achieved.

Market Development

Expanding markets for recovered recyclables is absolutely essential to making further progress in the state's waste diversion efforts. Central to this is solidifying a "buy recycled" ethic, especially in the commercial sector. To date, the Board has aggressively assumed an advocacy role in support of market development, implementing key initiatives outlined in its 1993 and 1996 market development plans. As a result of these plans and the market development aspects of SB 1066, the Board sought and received additional funds to bolster its efforts.

The Board's Recycling Market Development Zone program is the first of its kind in the nation. These enterprise zones for recycling-based manufacturing activity today number 40 around the state. Startup and expanding recycling businesses located in the zones are eligible for technical and financial assistance, including low-interest loans and tax credits.

Through this program, more than 4,000 new jobs have been created, and each year more than 7.6 million tons of waste is being diverted.

The Board's statutory enforcement role also fosters the expansion of markets. In the area of plastics, for instance, the Board is responsible for ensuring minimum recycling rates for a wide range of plastic packaging material. Through oversight, technical assistance, and (when necessary) compliance agreements with product manufacturers, the Board spurs expanded recycling and use of recycled plastics in the marketplace.

All these efforts will be pivotal in the commercial sector, which generates more than half of the state's waste. While many businesses have embraced the benefits of waste reduction and recycling, most have yet to capitalize upon historically untapped resources in recovered recyclables. Since businesses are not subject to the mandates of the acts, the state's challenge will continue to be helping private companies identify prudent, productive voluntary programs, while encouraging cooperative efforts between private enterprise and local jurisdictions.

Public Outreach and Environmental Education

As required by law, a public education and outreach component exists for virtually every Board program. The Board's efforts provide an opportunity to improve education and make school operations more resource efficient, through a variety of initiatives, including the Closing the Loop curriculum, which facilitates partnerships among environmental organizations and provides grant funding for school waste reduction programs.

State Agency Responsibility

State agencies are also required by law to establish recycling programs and buy recycled-content products. The Board promotes and monitors progress by each State agency through its Project Recycle program and the State Agency Buy Recycled Campaign.

State agencies should be an example for others and a force around California in the area of recycling and resource conservation.

Some progress has been made. Under Project Recycle, the number of State facility recycling programs has increased from 150 in 1991 to more than 1,800 today; the amount of material recycled during this period has expanded from only 2,000 tons a year to more than 63,000 tons a year. Nevertheless, the overall level of performance trails far behind the percentages of local jurisdictions striving to meet the requirements of the Act.

To address this need, 1999 legislation established State agency diversion mandates of 25 percent in 2002 and 50 percent in 2004, requiring each agency to also adopt an integrated plan to achieve the mandates. The Board is now assisting agencies in developing their plans.

The Board is also the driving force behind the State's Green Building Task Force whose goal is to institutionalize sustainable building practices as part of State construction projects in an efficient, practical and cost-effective manner.

Tires

California generates approximately 30 million tires every year. It is generally accepted that using products made from used tires is the ultimate solution to the waste tire problem.

Since 1990-91, market development expenditures related to used tires has totaled \$13.95 million. Areas of special emphasis include use of rubberized asphalt concrete and playground mats. To promote greater acceptance and use of rubberized asphalt concrete by local governments, the Board has allocated more than \$1.5 million to establish two technology centers located in Los Angeles and Sacramento.

The Board has also facilitated secondary uses for waste tires through its waste tire stabilization and abatement program. Of the 10 million tires removed from illegal and abandoned sites around the state since 1995, 84 percent went to productive end uses, including use as alternate daily cover, in waste-to-energy facilities, and in civil engineering applications. The remainder went to legal disposal.

Set to expire on January 1, 2001, the Board's tire program was reauthorized and strengthened by new legislation signed into law in September 2000.

Used Oil

The Board's used oil and household hazardous waste program develops and promotes alternatives to the illegal disposal of household hazardous waste. Created to promote proper handling, safe disposal and recycling, the programs are providing added benefit to the state's efforts to reduce storm water pollution as a consequence of public awareness messages that warn about dumping in storm drains.

Progress and Promise

While a number of issues and action items demanded by the drive toward 50 percent diversion remain, California's response to the Integrated Waste Management Act has been a success and underscores considerably more than numerical progress. It reflects a sea change in attitude and action. With an imposing infrastructure in place, programs coming on line and maturing, and millions of Californians committed to making a difference at home and as consumers, California's campaign to more sensibly handle its waste is well positioned to achieve greater success.

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Last updated: November 13, 2003

California Environmental Protection Agency <http://www.calepa.ca.gov/>
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Technical Contact: webmaster@calepa.ca.gov
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EXHIBIT "T"



Alan C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

California Integrated Waste Management Board

Rosario Marin, Chair
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Arnold Schwarzenegger
Governor

CERTIFIED MAIL – 7004 0550 0000 7676 5280

June 24, 2005

Mr. James P. Filbin, Owner
Jim Filbin Aggregates
4398 Santa Fe Road
San Luis Obispo, CA 93401

SUBJECT: Jim Filbin Aggregates, Assessor Parcel Number 076-371-012, San Luis Obispo County

Dear Mr. Filbin:

Enclosed is a copy of California Integrated Waste Management Board (CIWMB) staff's May 25, 2005 Inspection Report and Notice of Violation. The subject property was evaluated for compliance with the CIWMB's Construction and Demolition and Inert Debris Transfer/Processing Regulations and Construction and Demolition Waste and Inert Debris Disposal Regulatory Requirements contained in Title 14 of the California Code of Regulations (CCR), Chapter 3, Articles 5.9 and 5.95, respectively.

Based on CIWMB staff's observations and discussions with you during the May 25, 2005 inspection, the site receives source separated Type A inert debris that contains less than 10% residual material and less than one percent putrescible wastes and is considered an Inert Debris Recycling Center. However, since the inert debris is not being processed and sorted for resale or reuse within six months of receipt as required by 14 CCR 17381.1(e)(1), the inert debris is deemed to have been unlawfully disposed. You are hereby requested to submit a compliance schedule to the CIWMB by **July 29, 2005**, which describes your plans and schedule to process for resale or reuse the existing stockpiles of inert debris on your property. The compliance schedule shall include specific dates by which materials will be processed and removed from the property.

In addition, the following records shall be maintained: 1) the type and quantity of inert debris received; 2) documentation that the inert debris is processed and sorted for resale or reuse within six months of receipt; and 3) documentation that processed material is removed from the site within 18 months of processing. It is the owner/operator's responsibility to provide proof that the inert debris does not exceed the applicable storage limits in order to demonstrate compliance with 14 CCR Article 5.9. Maintaining the aforementioned records will assist in making that demonstration to the CIWMB.

CIWMB staff is available to assist you with specific questions or concerns regarding these requirements. Please be advised, if the compliance schedule is not submitted by **June 29, 2005**, a Notice and Order setting timelines and penalties may be issued.

California Environmental Protection Agency

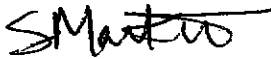
Printed on Recycled Paper

As the solid waste enforcement agency, the CIWMB is authorized to charge the owner/operator of a solid waste facility for its services when performing the duties of the solid waste enforcement agency. The current billing rate is \$102.49 per hour. As a result, all costs incurred while inspecting, reviewing pertinent documentation, and preparing correspondence will be billed to the owner/operator of the solid waste facility.

Keep in mind, no provisions in 14 CCR Article 5.9 or 5.95 shall be construed as relieving the owner/operator from obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports, or other requirements of other regulatory or enforcement agencies, including but not limited to, local health agencies, land use authorities, fire authorities, Regional Water Quality Control Board, and Air Pollution Control District.

If you have any questions regarding the inspection report or the CIWMB's requirements, please contact me at (916) 341-6324 or Jeff Hackett of my staff at (916) 341-6413.

Sincerely,



Susan Markie, Supervisor
Enforcement Assistance Section
Facilities Operations Branch
Permitting and Enforcement Division

Enclosure

cc: San Luis Obispo County Planning and Building Department
San Luis Obispo County Public Health Depart., Environmental Health Services (CUPA Program)
Central Coast Regional Water Quality Control Board
Wiley P. Ramey, Jr., P.O. Box 170, San Simeon, CA 93452

**CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
SITE INSPECTION REPORT AND NOTICE OF VIOLATION**

FACILITY: Jim Filbin Aggregates

INSPECTOR: Jeff Hackett *JH*

FACILITY #:

ACCOMPANIED BY: Susan Markie, CIWMB
Mike Poelking, CHP
James P. Filbin, Owner
Mike (associate of
Mr. Filbin)

INSPECTION DATE: May 25, 2005

LOCATION: 4398 Santa Fe Road
San Luis Obispo, CA 93401
APN 076-371-012
(the "Filbin Site")

SITE TELEPHONE: 805.543.1383

**OWNER AND
OPERATOR:** Mr. James P. Filbin
4398 Santa Fe Road
San Luis Obispo, CA 93401

PERMIT ISSUE DATE: None

ACREAGE: 13.01

Background:

On September 21, 2004, California Integrated Waste Management Board (CIWMB) staff, Jeff Hackett, acting as the enforcement agency for San Luis Obispo County pursuant to Public Resources Code section 43202, observed large stockpiles of concrete and asphalt at the Filbin Site from Santa Fe Road, San Luis Obispo. Mr. Hackett entered the Filbin Site and was greeted by an occupant of the property. The purpose of the visit was to meet and inform the owner and/or operator of the Filbin Site of the CIWMB's Construction and Demolition and Inert (CDI) Debris Regulations contained in Title 14 of the California Code of Regulations (CCR). Mr. Hackett discussed the CDI regulations with the occupant (believed to be Mr. James P. Filbin, but he would not provide his name) and asked permission to inspect the property. A copy of Title 14 CCR, Article 5.9 was provided to the occupant. The occupant of the Filbin Site did not grant Mr. Hackett permission to inspect the Filbin Site.

On September 29, 2004, CIWMB Supervisor, Susan Markie, sent a letter to Mr. Filbin, which requested that Mr. Filbin contact CIWMB staff by October 15, 2004, to arrange an inspection of the Filbin Site to determine the permitting requirements and minimum operating standards for the receipt, storage, handling, transfer, or processing of construction and demolition and inert debris on the Filbin Site. CIWMB staff did not receive a response from Mr. Filbin.

On October 21, 2004, CIWMB staff, Jeff Hackett, conducted an aerial assessment of the Filbin Site with the California Highway Patrol to take photographs of the property and to evaluate the types and extent of solid waste stored on the property. The aerial assessment showed that a majority of the approximately 13 acre Filbin Site is covered with stockpiles of concrete, asphalt, soil, and other salvage/vehicles (pictures on file).

On November 29, 2004, CIWMB Senior Staff Counsel, Michael Bledsoe, sent a letter to Mr. Filbin again requesting permission to inspect the Filbin Site. The letter requested a response from Mr. Filbin by December 13, 2004, to arrange for CIWMB staff to inspect the property. CIWMB staff did not receive a response from Mr. Filbin granting permission to inspect the Filbin Site.

On January 27, 2005, Mr. Bledsoe sent another letter to Mr. Filbin (via facsimile) in response to a telephone conversation between Mr. Bledsoe and Mr. Filbin on January 25, 2005. This letter again stated the CIWMB's intent to pursue an inspection warrant if consent was not granted to inspect the Filbin Site. Since consent to inspect the Filbin Site was not granted by Mr. Filbin, an inspection warrant was prepared.

On May 23, 2005, an inspection warrant was signed by San Luis Obispo County Superior Court Judge Christopher Money. The inspection warrant was subsequently served on Mr. Filbin and the inspection was carried out on May 25, 2005, at approximately 0900 hours.

Inspection Observations:

On May 25, 2005, pursuant to the inspection warrant, CIWMB staff, Jeff Hackett and Susan Markie, inspected the Filbin Site. The inspection warrant empowered the CIWMB to inspect the property to determine the applicability of State solid waste laws and regulations promulgated by the CIWMB. Since an inspection warrant was being executed, CIWMB staff was accompanied by Officer Mike Poelking of the California Highway Patrol. The inspection commenced at approximately 0900 hours. Mr. Filbin and an associate of his named "Mike" (no last name was given), and Officer Poelking accompanied CIWMB staff during the inspection.

During the inspection, CIWMB staff asked Mr. Filbin whether he had any records of the types and amounts of materials received at or removed from the Filbin Site, as well as tipping fees (dumping charges) he received. Mr. Filbin stated that he does not have any records of the materials received or removed and that he does not charge a tipping fee. There is no scale at the site and no operating heavy equipment was observed. Mr. Filbin did state that the material is not processed and removed from the Filbin Site on any regular frequency. In general, concrete, asphalt, and soil are accepted from local contractors and stockpiled in designated areas. According to Mr. Filbin, concrete, asphalt, and soil have been received at the Filbin Site since approximately December 1978.

CIWMB staff walked the Filbin Site and measured seven stockpiles of materials with a measuring wheel. CIWMB staff estimates that 7,500+ cubic yards of soil, 57,100+ cubic yards of concrete (including the "washout" material from cement trucks) and 23,100+ cubic yards of asphalt are stockpiled on the Filbin Site. Refer to the attached Site Map for the dimensions used to estimate the quantities of each material. The estimates do not include the fill material that has been placed and graded on the Filbin Site in a three to six foot lift, which has raised the elevation of the property above the surrounding topography. The following materials were also observed on the Filbin Site: less than 500 tires, lead acid batteries (most stored on pallets), transit pipe, 55-gallon drums, old cars, storage tanks, trucks, buses, RVs, and aircraft parts (fuselages, wings).

CIWMB staff did not take any samples at the time of the inspection. Contaminated soils, asbestos containing waste (in addition to the transit pipe) and hazardous materials/wastes could also be present at the Filbin Site, but a more detailed investigation by the appropriate regulatory authorities would be required to make this determination.

The materials received and stockpiled at the Filbin Site within the jurisdiction of the CIWMB consists primarily of concrete and asphalt which are considered Type A inert debris as defined in 14 CCR 17381(k)(1). The Type A inert debris received appears to be source separated, contains less than 10% residual by weight and less than one percent putrescible by volume. The owner/operator does not maintain records that document the amounts and types of material received, processed, and stored at the Filbin Site. Due to the types and amounts of material received and stored on the property, the Filbin Site is considered an Inert Debris Recycling Center and is required to meet the requirements of 14 CCR 17381.1, including the storage time limits. Based on CIWMB staff observations and discussions with Mr. Filbin, the Type A inert debris received is not processed and sorted for resale or reuse within six months of receipt as required by 14 CCR 17381.1(e)(1). Since the Type A inert debris is not processed for resale or reuse within six months of receipt, the Type A inert debris stockpiled on-site is deemed to have been unlawfully disposed and is subject to enforcement action as provided in 14 CCR 17381.1(e)(1).

The inspection concluded at approximately 1100 hours.

Violations:

The site is in violation of the following requirement:

14 CCR 17381.1(e)(1) – Storage Time Limits – Type A inert debris is not being processed and sorted for resale or reuse within six months of receipt. Based on CIWMB staff's observations during the inspection, it is apparent that the majority of the materials on the Filbin Site are not processed for resale or reuse within six months of receipt. At the time of the inspection, Mr. Filbin acknowledged that the materials received are not processed for resale or reuse within six months of receipt.

Storage time limits may be extended for a specified period if the owner/operator submits a storage plan to the enforcement agency in accordance with 14 CCR 17384(b) and the enforcement agency finds that the additional storage time does not increase the potential harm to public health, safety and the environment, pursuant to 14 CCR 17381.1(e)(6).

Note: Activities which do not meet the applicable requirements of 14 CCR 17381.1 do not qualify as recycling centers and shall comply with 14 CCR Article 5.9 or Article 5.95 and all laws and regulations applicable to them. The burden of proof is on the owner/operator of a site to demonstrate that the activities at the site are not subject to the requirements of 14 CCR Article 5.9. If the owner/operator is not able to meet the applicable storage time limits for a recycling center, then the material is considered unlawfully disposed and is subject to the requirements contained in 14 CCR Article 5.95 - Construction and Demolition Waste and Inert Debris Disposal Regulatory Requirements.

Requirements:

The owner/operator does not process the Type A inert debris for resale or reuse within six months of receipt, as required under 14 CCR 17381.1 for Type A inert debris recycling centers. The CIWMB directs that the owner/operator of the Filbin Site:

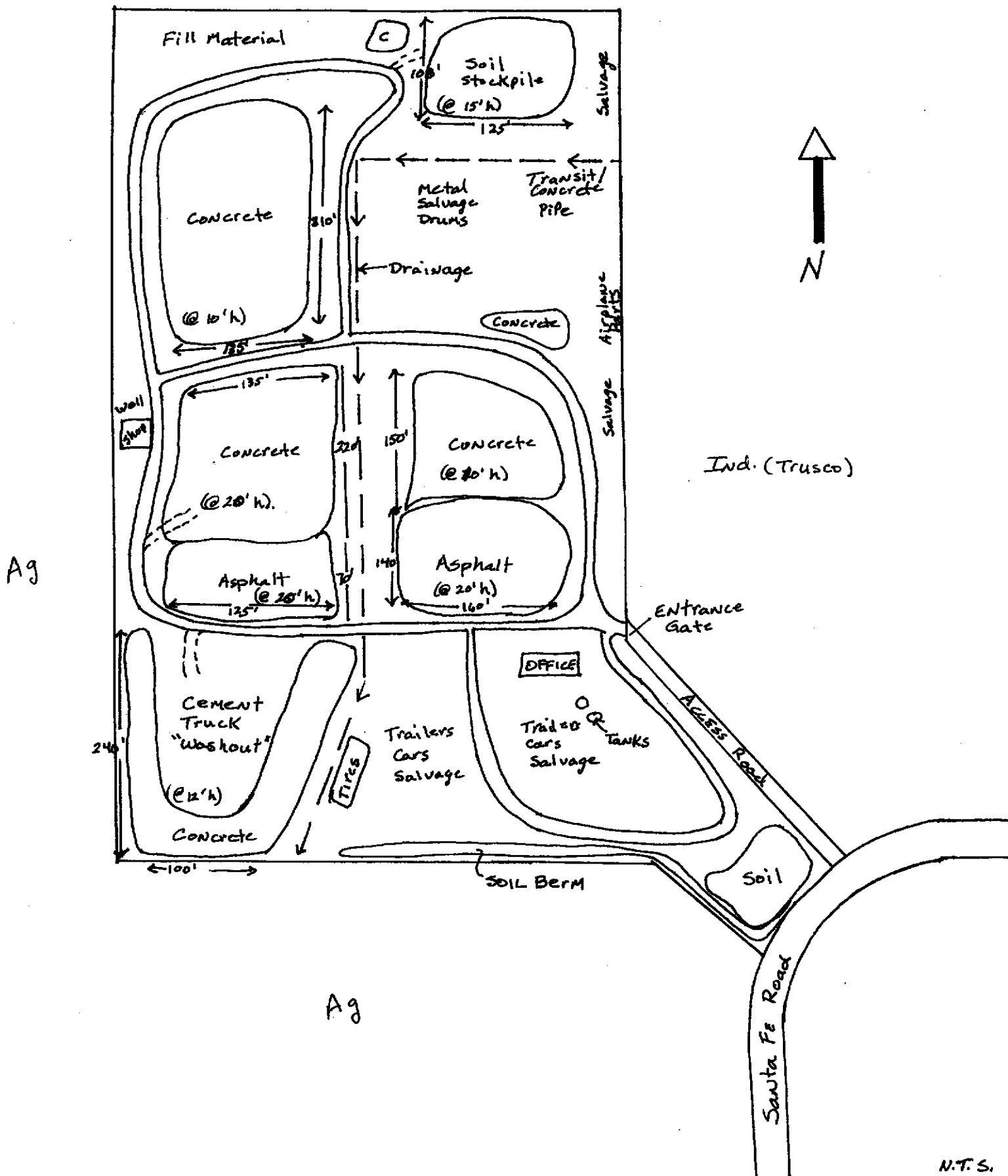
1. Submit a compliance schedule to the CIWMB not later than July 29, 2005, which includes a date that the owner/operator will begin to process for resale or reuse the existing stockpiles of Type A inert debris as well as an anticipated date to complete the processing of all of the Type A inert debris for resale or reuse. The schedule shall include the quantity of Type A inert debris that is planned to be processed on a daily, weekly, or monthly basis (e.g., 5,000 cubic yards per week).
2. Maintain the following records: 1) the type and quantity of inert debris received; 2) documentation that the inert debris is processed and sorted for resale or reuse within six months of receipt; and 3) documentation that processed material is removed from the site within 18 months of processing. It is the owner/operator's responsibility to provide proof that the inert debris does not exceed the applicable storage limits in order to demonstrate compliance with 14 CCR Article 5.9. Maintaining the aforementioned records will assist in making that demonstration to the CIWMB.

In the event the owner/operator fails to provide the required compliance schedule, CIWMB staff will issue a Notice and Order which specifies compliance dates for the processing and removal of the stockpiles of Type A inert debris as well as penalties for failure to meet the compliance dates and other enforcement measures.

No provisions in 14 CCR Article 5.9 or 5.95 shall be construed as relieving the owner/operator from obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports, or other requirements of other regulatory or enforcement agencies.

Attachments: 1. Site Map
2. Inspection Photos, dated 5/25/05
3. Aerial Photo, dated 10/21/04

Jim Filbin Aggregates Site Map 5/25/05





FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: South

Weather: Overcast

Photo by: S. Markie



Photograph Description: #1-Looking south from the northwest portion of the property. Three plus foot lift of concrete/asphalt.

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: Southeast

Weather: Overcast

Photo by: S. Markie



Photograph Description: #2-Concrete/asphalt mix on northwest portion of the property placed and graded.



FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

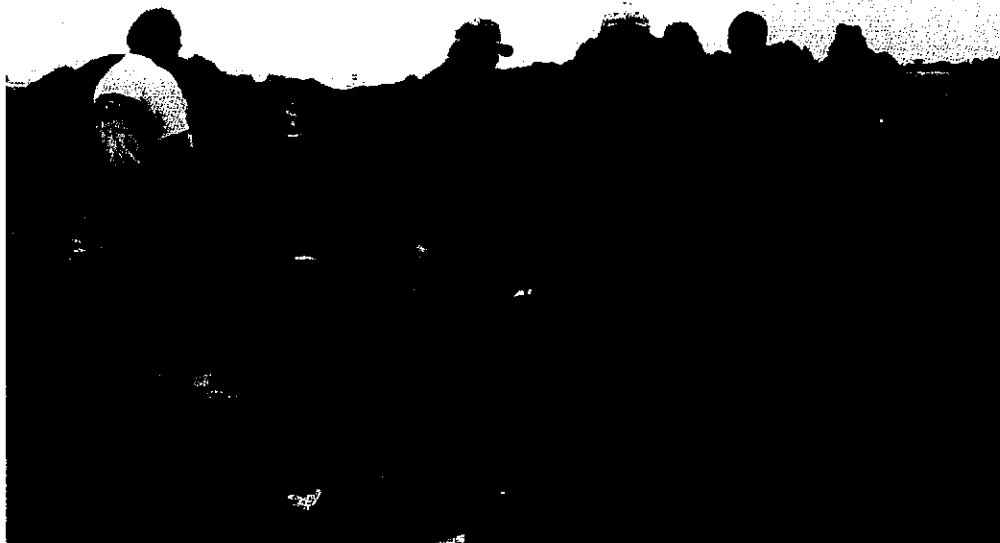
SWIS #:

Date: 5/25/05

Direction: East

Weather: Overcast

Photo by: S. Markie



Photograph Description: #3-Northern portion of site where a 3-6 lift of concrete/asphalt has been placed and graded.

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: East

Weather: Overcast

Photo by: S. Markie



Photograph Description: #4-Northern property boundary. Lift of concrete/asphalt placed and graded.



FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: East

Weather: Overcast

Photo by: S. Markie



Photograph Description: #5-Northern property boundary. Small concrete stockpile and soil stockpile to the right.

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: Southeast

Weather: Overcast

Photo by: S. Markie



Photograph Description: #6-Overview of east side of the property and salvage storage area (from top of soil stockpile). Materials stored include airplane parts, transit/concrete pipe, drums, tanks, vehicles.



FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: Southeast

Weather: Overcast

Photo by: S. Markie



Photograph Description: #7-Overview of east side of the property. Materials stored include airplane parts, transit/concrete pipe, drums, tanks, vehicles, tires.

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: South

Weather: Overcast

Photo by: S. Markie



Photograph Description: #8-Overview of the site looking south from the soil stockpile.



Integrated Waste Management Board
1001 I Street
Sacramento, CA 95814

FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

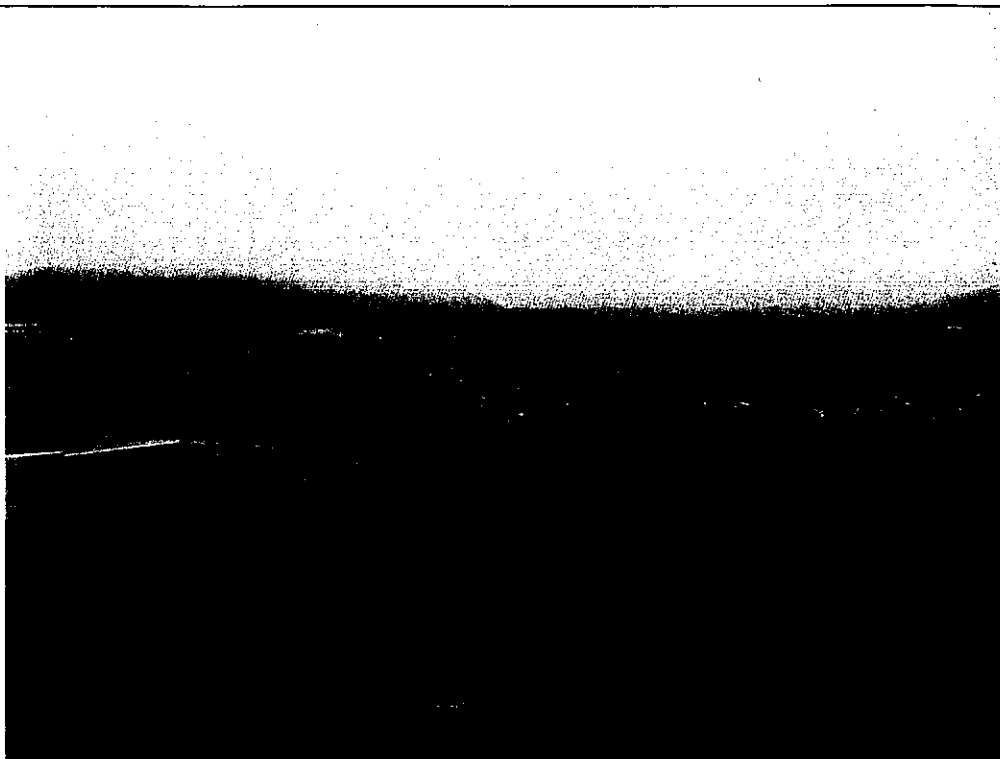
SWIS #:

Date: 5/25/05

Direction: Southwest

Weather: Overcast

Photo by: S. Markie



Photograph Description: #9-Overview of the west portion of the property from the soil stockpile.

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: West

Weather: Overcast

Photo by: S. Markie



Photograph Description: #10-Overview of the west portion of the property from the soil stockpile.



Integrated Waste Management Board
1001 I Street
Sacramento, CA 95814

FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: South

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #11-View of "wash-out" material from cement trucks on southwest portion of the property.

Site Name:
Jim Filbin Aggregates

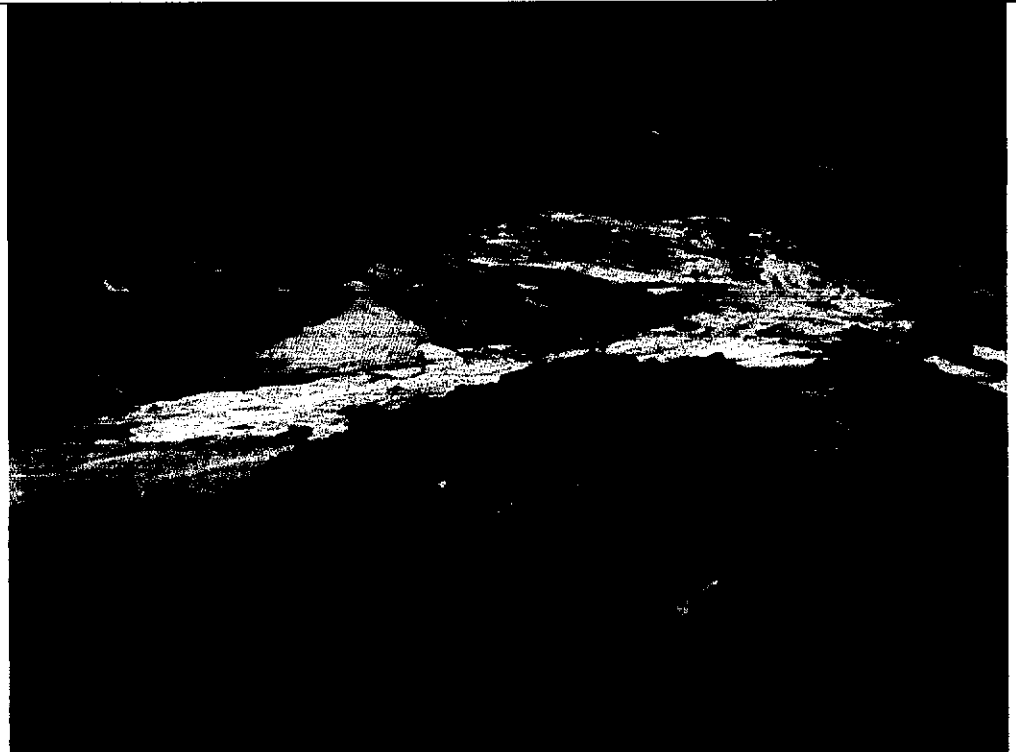
SWIS #:

Date: 5/25/05

Direction: South

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #12-"Wash-out" material from cement trucks on southwest portion of the property.



FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: Southeast

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #13-Overview of the south portion of the property (salvage/vehicle storage). Materials stored include storage tanks, vehicles, RVs, metal debris, tires.

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: North

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #14-Overview of the large concrete pile on the central portion of the property.



Integrated Waste Management Board
1001 I Street
Sacramento, CA 95814

FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: Southeast

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #15-Overview of the south portion of the property (salvage/vehicle storage area).

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: North

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #16-Concrete stockpile. Drainage channel in lower right of photo.



Integrated Waste Management Board
1001 I Street
Sacramento, CA 95814

FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

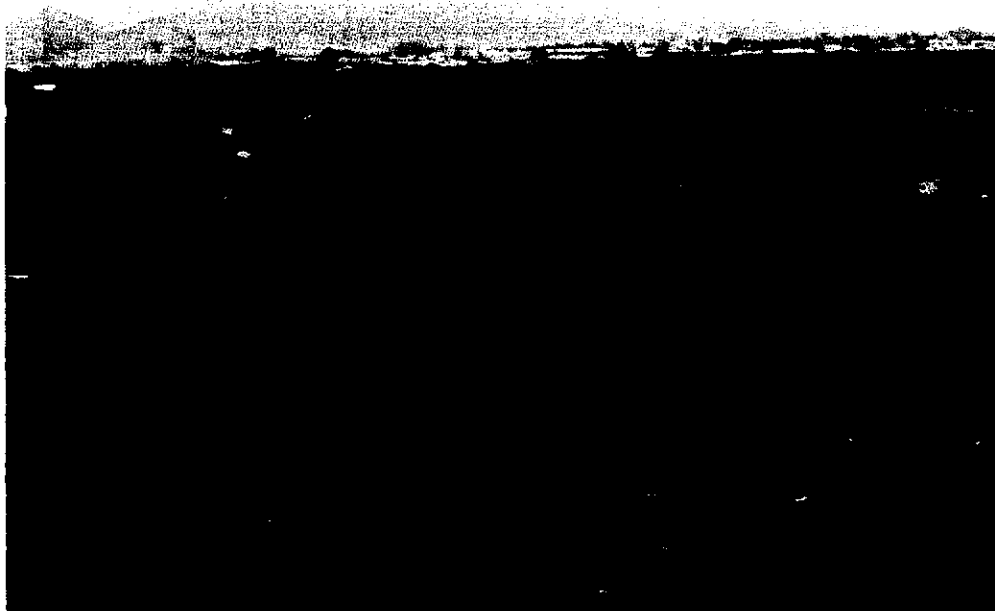
SWIS #:

Date: 5/25/05

Direction: Northeast

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #17-Asphalt debris.

Site Name:
Jim Filbin Aggregates

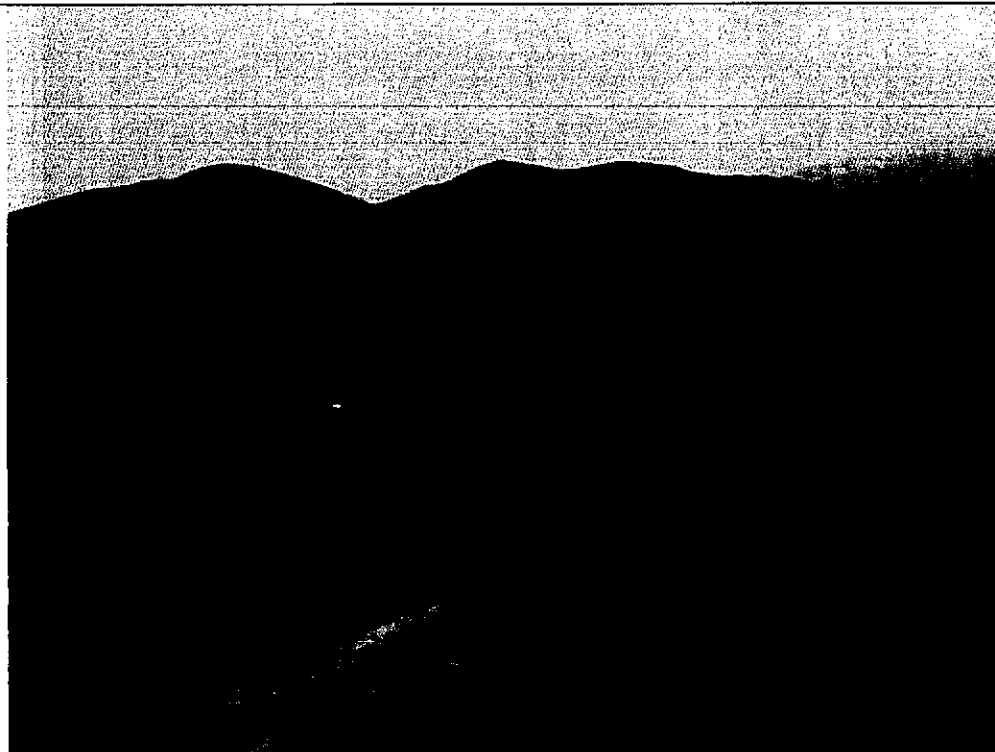
SWIS #:

Date: 5/25/05

Direction: North

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #18-Concrete debris. Shop located on the left of the photo.



Integrated Waste Management Board
1001 I Street
Sacramento, CA 95814

FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

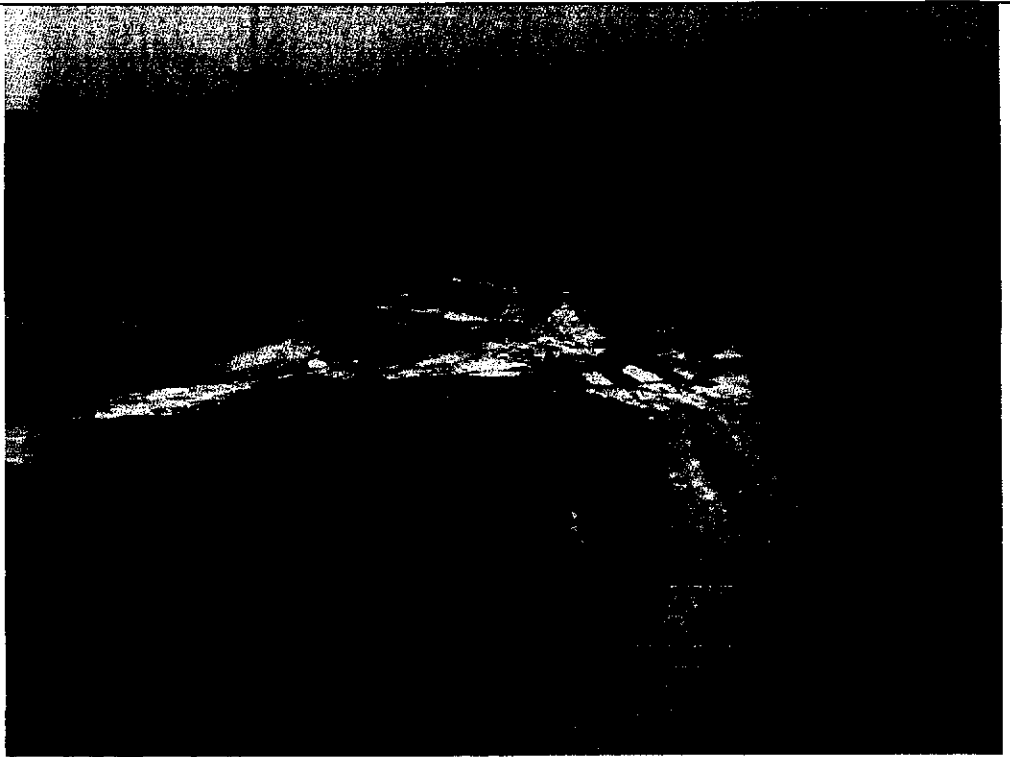
SWIS #:

Date: 5/25/05

Direction: South

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #19-"Wash-out" material from cement trucks on southwest portion of the property.

Site Name:
Jim Filbin Aggregates

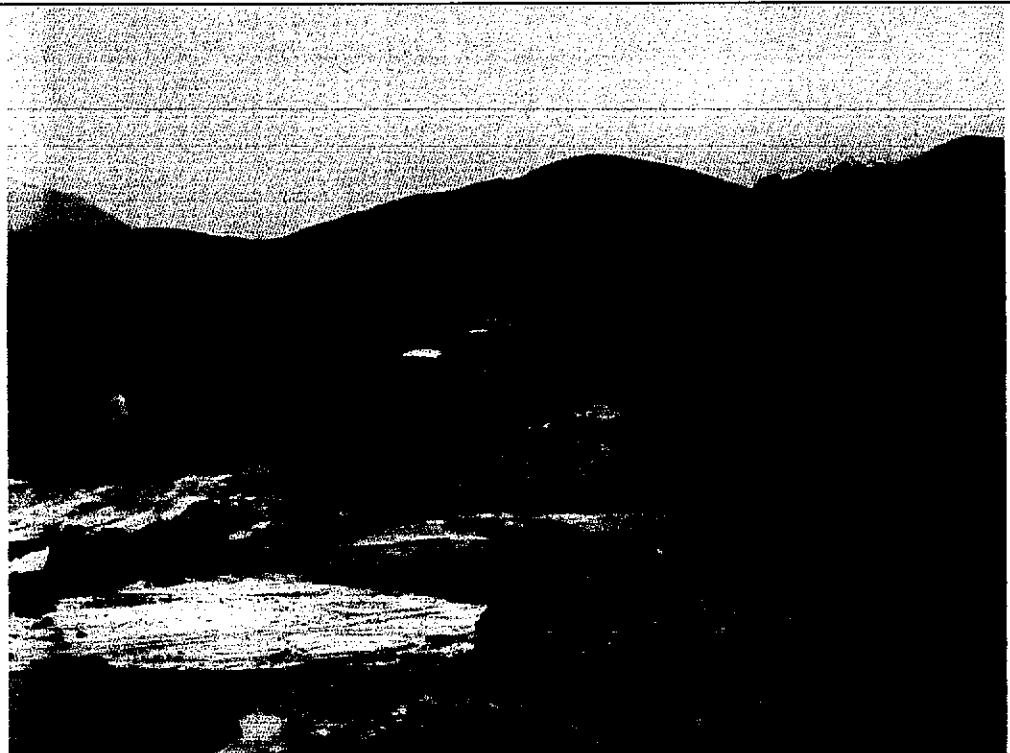
SWIS #:

Date: 5/25/05

Direction: North

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #20-Customer delivering concrete to unload.



Integrated Waste Management Board
1001 I Street
Sacramento, CA 95814

FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: East

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #21-Overview of the salvage area (cars, tires, metal, trailers, storage tanks, etc.).

Site Name:
Jim Filbin Aggregates

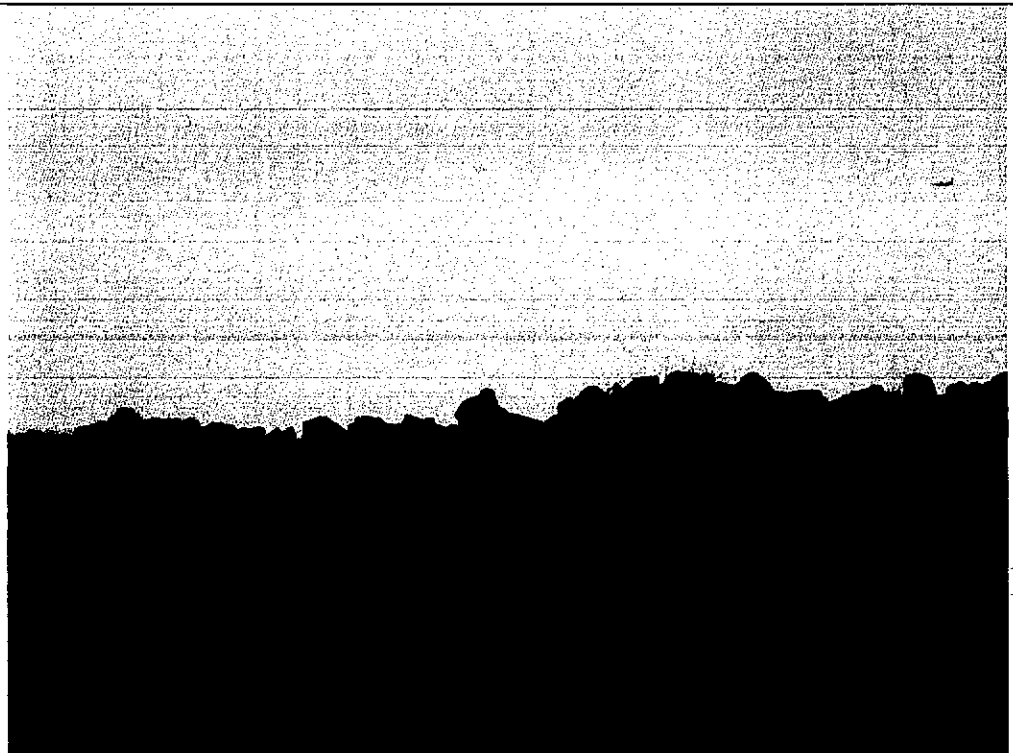
SWIS #:

Date: 5/25/05

Direction: North

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #22-Customer unloading concrete.



FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: Northwest

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #23-Concrete stockpile. Drainage channel between the road and stockpile.

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction:

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #24-Asphalt stockpile.



Integrated Waste Management Board
1001 I Street
Sacramento, CA 95814

FIELD PHOTOGRAPHY LOG SHEET

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: South

Weather: Overcast

Photo by: J. Hackett



Photograph Description: #25-Customer leaving.

Site Name:
Jim Filbin Aggregates

SWIS #:

Date: 5/25/05

Direction: North

Weather: Overcast

Photo by: S. Markie



Photograph Description: #26-Southeastern perimeter. Dog run on the right (two pit bulls).

Jim Filbin Aggregates, Aerial Photo, 10/21/04

